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OVERSIGHT OF THE LEGAL SERVICES CORPORATION, 1984

HEARING

BEFORE THE

COMMITTEE ON LABOR AND HUMAN RESOURCES UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

REVIEW OF THE CORPORATION'S DOCUMENTS TO ASCERTAIN WHETHER THERE ARE ANY PROBLEMS WITH THE AGENCY'S POLICIES THAT NEED TO BE ADDRESSED

APRIL 11, 1984

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OVERSIGHT OF THE LEGAL SERVICES CORPORATION, 1984

WEDNESDAY, APRIL 11, 1984

U.S. Senate,
Committee on Labor and Human Resources,
Washington, DC.

The committee met, pursuant to notice, at 9:30 a.m. in room 430, Dirksen Senate Office Building, Senator Orrin G. Hatch (chairman of the committee) presiding.

Present: Senators Hatch and Denton.

OPENING STATEMENT OF SENATOR HATCH

The Chairman. Today we continue our hearings on the Legal Services Corporation which we began last year. During our earlier hearings the committee heard a great deal of testimony and received literally thousands of documents which indicated that in the early 1980's, the Corporation has engaged in a variety of lobbying efforts in flagrant violation of the law. Moreover, the committee learned that some Corporation officials and members of the staff of Corporation grantees tried to get around these prohibitions and then attempted to cover up their involvement in activities prohibited by law.

The evidence presented before our committee was so serious and so voluminous that Senator Denton and I asked the General Accounting Office to provide the committee with an independent analysis of the materials that we had accumulated, and attempt to determine whether or not the law has been broken.

I also instructed my staff to continue reviewing Corporation documents to ascertain whether there are any more problems with the agency's policies which need to be addressed.

We now will see some of the results of this effort. For example, the committee assembled, for the first time last year, documentation indicating that the Corporation's top officials held a regional meeting in Denver, CO, in 1981. This meeting was designed to encourage grantees to engage in political activities.

The committee also found documentation that Corporation officials used their resources to finance a political campaign to defeat a State ballot measure in California. The campaign was run by a Legal Services grantee, the Western Center on Law and Poverty.

In a preliminary opinion released on September 19, 1983, the GAO found that both of these activities violated specific congressional prohibitions. Last year, the committee also found evidence that officials of the National Clients' Council had used funds provided by the Corporation for their own personal benefit. The council was set up to help the poor participate in Legal Services' programs.

Recently, the Corporation released a document entitled "Report on the Study of the National Clients' Council" which questions not only the financial practices of the Council, but also its work product. According to a report, Mr. Bernard Vesey, the executive director of the council, used council funds to pay for the travel of his family, repeatedly stayed in hotel rooms that cost well in excess of $100 per night, billed the council for more than $10,000 to cover the cost of his commute from his home in suburban Maryland to his office in Washington, DC, and received more than $6,000 in salary advances which have not yet been repaid.

The report also raises serious questions about just what the council has been doing with its annual budget of $500,000. Apparently, the council was not in any routine contact with its members and, in fact, did not even have an accurate idea of the size of its membership. After reading the entire report, one comes away with the feeling that the National Clients' Council has become a kind of ghost organization whose purpose is no longer clear and whose services are not documented.

I believe that the allegations against the National Clients' Council are serious, and I would have preferred to have covered them during today's hearing, but I understand that the Corporation has requested that we not ask any questions about the council until the current defunding procedures against that organization have been completed. I intend to respect their request.

Today, the General Accounting Office will be testifying about its investigation of other instances of Corporation involvement in what has come to be known as the "Survival Campaign." Also testifying will be Donald Bogard, the current President of the Legal Services Corporation, and Clarence McKee, who has served as the Presidential recess appointee to the Corporation's Board of Directors.

Among other things this morning, we hope to review the Corporation's recent defunding of the Western Center on Law and Poverty, certain grant arrangements made between the Corporation and the National Legal Aid and Defender Association, the reasons behind the Corporation's inability to determine just what those million-dollar grants are funding, and the status and purpose behind Corporation grants that were administered by Rio Grande Associates of New Mexico.

I have noted before that the debate over Legal Services has suffered because of the lack of information. I believe the committee's hearings last year and the effort this year will enable this committee and the Senate to discuss and resolve the issues surrounding the Corporation from an informed basis.

Moreover, these hearings have helped to ensure that Federal funds are being spent in the direct delivery of legal services to the poor, and that Federal funds are not being spent on the political agenda of staff attorneys, the whims of some Corporation officials, or the hopes of the legal services institutions that the Corporation underwrites. We have helped to ensure that the good programs are encouraged and those that are breaking the law are stopped.

The hearings have also demonstrated that Legal Services can have a positive impact and can provide a needed service for the Nation's poor. In my own State of Utah, the local Legal Services program is doing a good job because they are taking care of the legal needs of the poor. In fiscal year 1983 they resolved approximately 3,000 cases, handled a case load of more than 250 cases per attorney, and processed over 8,000 phone requests. These totals were achieved despite the fact that on a per capita basis, they are one of the lowest-funded programs in the United States. And that program made it clear that they could have helped more people if they had had more funds.

We should remember that every time Federal Legal Services funds are misused or spent on an illegal activity, are wasted on meetings, needless reports or are squandered on financial irregularity, a poor person probably has been deprived of his or her chance to obtain free legal representation.

So it is my sincere hope that much of the abuse that we have uncovered during these hearings can be stopped so that in the future the moneys that are being wasted on illegal activities can be directed back where they belong, to the provision of legal help to the poor.

At this point I would like to place into the record the September 19, 1983, GAO opinion and relevant portions of the report on the study of the National Clients' Council.

[Material supplied follows:]

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

B-210338/B-202116

September 19, 1983

The Honorable Orrin G. Hatch
Chairman, Committee on Labor and Human Resources
United States Senate

Dear Mr. Chairman:

This is in response to your recent letters requesting this Office to render a legal opinion concerning whether any of the documents and other materials that you recently obtained from the Legal Services Corporation (LSC) files and turned over to this Office, contain evidence of violations of certain restrictions in the Legal Services Corporation Act of 1974 (42 U.S.C. § 2996).

BACKGROUND

At the end of 1980, Representative Sensenbrenner provided this Office with certain internal memoranda he had obtained from the LSC and requested an opinion on whether these documents indicated that the Corporation had violated Federal anti-lobbying laws. We rendered our opinion in 60 Comp. Gen. 423 on May 1, 1981, holding that the material in the memoranda indicated that LSC had itself engaged and allowed its grant recipients to engage in lobbying activities prohibited by Federal law. You have now provided us with several hundred additional internal memoranda and other materials from the LSC headquarters and regional office files covering primarily the 1981 calendar year period and have requested a determination concerning whether these materials contain evidence indicating that LSC or its fund recipients violated statutory restrictions on its training and coalition building activities as well as restrictions on advocating or opposing ballot measures, initiatives and referendums.

It would require several months for us to review the enormous volume of material you have supplied and we plan to accomplish this task in connection with our investigation of the LSC survival plan that you requested. However, in order to comply with the short time frame of your request to provide you with a response regarding the issues referred to above by mid-September 1983, we have selected certain material, that in our opinion, indicate violations of restrictions you mentioned.

TRAINING SESSION

One piece of documentary evidence we reviewed was a video cassette recording of a training session at a Denver Regional Project Directors meeting conducted by the Corporation and certain grantees beginning on January 12, 1981, at the Hilton Harvest House in Boulder, Colorado. Similar meetings were held at the other regional offices during December and January 1981. Several officials from the Corporation headquarters in Washington and from grantee organizations located in the Western region of the country were present at the session and made presentations. These officials included Dan Bradley, President of the Corporation, Jeanne Connolly, Assistant Director of the Corporation's Government Relations Office, Alan Houseman, Director of the LSC Research Institute, Jonathan Asher, Executive Director of the Legal Aid Society of Metropolitan Denver, Alan Rader, Staff attorney with the Western Center on Law and Poverty in Los Angeles, a Corporation-funded California State Support Center and Don Wharton from the Oregon Legal Services Corporation, a Corporation-funded Oregon State Support Center. The session was attended by approximately 100 persons, including program officials and staff attorneys from states comprising the Denver region and representatives of outside organizations.

We have summarized and in some cases quoted from the presentations of the above-mentioned speakers. This material is included as Appendix I. In analyzing the content of the first day presentations contained on the recording, we must conclude that the remarks of the speakers provide evidence of violations of statutory restrictions on the use of Corporation funds for certain activities which we shall explain below.

TRAINING PROHIBITION

The training prohibition is contained in 42 U.S.C. § 2996f(b)(6) and reads as follows:

> "(b) No funds made available by the Corporation under this subchapter, either by grant or contract, may be used-"

> "(6) to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes and demonstrations, as distinguished from the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients;"

This provision restricts grantees and contractors from using funds provided by the Corporation to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities as distinguished from the dissemination of information about such policies or activities.

The legislative history contained in the House Committee on Education and Labor Report to accompany H.R. 7824, The Legal Services Corporation Act of 1974 (H. Rep. 93-247, 93rd Cong., 1st Sess. 11) is instructive regarding the intent of Congress concerning this provision. The section-by-section analysis explains the provision as follows:

> "The Committee would like to assure that the legal services provided to eligible clients are of the highest quality. Although a recipient, therefore, should be funded to carry out an appropriate training program, the Committee expects that no grantee--under the guise of fulfilling program training functions--will advocate any political action including, but not limited to, boycott, demonstrations, strikes or picketing. Training programs should seek to fully inform attorneys and their clients about indigents' legal rights and how such rights can be implemented, but the training sessions should not be organized to advocate particular political actions. Moreover, while information is disseminated about public policies that affect poor people's lives, and while training programs should set forth relevant information

> concerning alternative means that can be utilized to enforce poor people's rights, the training sessions should not be organized to advocate any particular political actions. The provision, setting forth the responsibilities of training programs, is not intended to prohibit attorneys, who are paid for by corporation funds, from providing legal advice to eligible clients and their organizations." [Emphasis added]

It is clear from the legislative history that grantees and contractors are restricted from using funds provided by the Corporation for training programs that advocate particular public policies or encourage political activities, but are allowed to provide information about public policies and how they may affect clients. During training programs for attorneys and other staff personnel, grantees and contractors, may legitimately disseminate information about such public policies that impact on poor people and discuss legal remedies that may be attempted on behalf of such clients. However, they are prohibited from advocating specific public policies or urging the use of political activities in connection with training programs. Grantees and contractors may neither directly conduct such training programs nor provide support to other organizations that are conducting such programs where such support involves the use of funds provided by the Corporation.

The January 1981 Denver Regional Project Directors Meeting was an official Corporation sponsored training function. Numerous grantee organizations within the boundaries of the multi-state Denver region, and some from without, sent representatives to the session and paid their salaries, travel and transportation expenses from funds provided by the Corporation. A meeting agenda and participants' list was published which we assume was provided to participants in advance (See Appendix II). The agenda characterized many of the presentations in such descriptive terms as to put participants on notice that the presentations would almost surely constitute violations of statutory restrictions on the use of corporate funds. For example, some of the presentations by grantees were listed as: "Mobilization and Coalition Building Case Studies - The California Prop. 9 and Oregon Experiences"; "Strategy Workshops in Network Building

Skills"; "Client and Community Organization Networking"; and "Mobilization and Coalition Building". During the session, speakers from the Corporation and grantee organizations advocated particular public policies and encouraged political activities. Some speakers advocated a policy of resistance to Reagan administration announced objectives to reduce the budget for, and scale down, all social benefit programs. For example, Mr. Houseman described the nature of the threat by stating:

> "What is at stake is not solely the survival of the Legal Services program. What is at stake is the survival of many social benefits--entitlement programs that we struggled, since 1965, to make real for poor people. We have struggled since 1965 to bring into the belt federal, state and local benefits. What is at stake is a number of other kinds of programs like affirmative action, civil rights programs. That, in the end, is what is at stake in this battle. Those, in the end, are far more important than legal services. Legal services is a tool to get them. Both of those kinds of things, both of those problems--legal services, social benefits, entitlement programs, civil rights. Those are what are at stake in this battle."

Don Wharton stated that his group decided that it would be a kind of malpractice if his grantee organization failed to fight for all those programs of social benefits that people had worked so hard for over the past decade.
Mr. Houseman's presentation was entitled "Strategies for the Future" and advocated a policy that the budget, structure and authority of the Legal Services Corporation be preserved at then current, or near then current, levels in the face of the threat that the Reagan Administration might adopt a policy to significantly reduce the budget and curtail the operations of the Corporation. Mr. Houseman analyzed specific proposals that might be adopted by the Reagan Administration and discussed some counter strategies. He pointed out that Reagan could appoint many new directors to LSC's Board who might be hostile to aggressive legal services and the staff attorney system. The counter strategy was to attempt to persuade moderate Reagan supporters such as

former Senator Ed Brooke to apply for appointment to the LSC Board. Mr. Houseman also anticipated opponents would attempt to impose additional restrictions on legislative representation and cases that involve suits against the Government, aliens, education and abortion. He anticipated major efforts to eliminate the National and State Support Center System and recovery of attorney's fees in suits against the Government. His counter to these threats was to establish a massive nationwide grass roots lobbying effort in order to influence Congress to vote against any legislation designed to implement any of these measures. Most of the speakers encouraged those in attendance to engage in political activities. These activities included building coalitions and networks with other organizations with shared interests, such as elderly groups, private attorneys, League of Women Voters chapters, labor unions, church groups and community organizations to establish a grass-roots lobbying campaign to lobby Congress in support of Legal Services and other social benefit and entitlement programs and in opposition to Reagan Administration proposals to curtail these programs. For example, Mr. Wharton told grantees that they were in a political campaign and urged them to build coalitions with groups such as unions, attorneys and minority groups to be effective. For another example, Jeanne Connolly urged members of the audience to engage in political activities by encouraging their friends to write letters to Members of Congress on behalf of the Legal Services Program. She also suggested that grantees designate a staff person to write letters for outside community organizations and agencies to send to Members of Congress requesting their support for the Program. We cite this as an example of political activities prohibited by the training prohibition in 42 U.S.C. § 2996f(b)(6). However, such activity may violate antilobbying provisions contained in 42 U.S.C. § 2996e(c), applicable to the Corporation and 42 U.S.C. § 2996f(a)(5) applicable to grantees, to the extent that specific legislation was pending before the Congress that they were attempting to influence. See for example, 60 Comp. Gen. 423, supra.

In sum, the above activity constitutes a violation of the training prohibition contained in 42 U.S.C. § 2996f(b)(6) because grantee officials at the Denver meeting were supporting and were conducting a training program for the purpose of advocating particular public policies and were encouraging grantees to engage in political activities. Although Corporation officials did not technically violate this provision, they are not blameless for reasons set forth in the next section.

CORPORATION ENFORCEMENT RESPONSIBILITY

We should point out that 42 U.S.C. § 2996f(b)(6) is a restriction on the use of corporate funds for training activities by grantees and contractors. The Corporation has a responsibility under 42 U.S.C. § 2996e(b)(1)(A) to insure the compliance of recipients and their employees with the provisions of the Legal Services Corporation Act of 1974. That section reads as follows:

> "(1)(A) The Corporation shall have authority to insure the compliance of recipients and their employees with the provisions of this subchapter and the rules, regulations, and guidelines promulgated pursuant to this subchapter, and to terminate, after a hearing in accordance with section 2996j of this title, financial support to a recipient which fails to comply."

This provision authorized the Corporation to enforce restrictions in the Act on fund recipients. Instead of carrying out this statutory enforcement authority, the Corporation assumed a contrary role of encouraging grantees to engage in training activities prohibited by 42 U.S.C. § 2996f(b)(6). The Corporation scheduled the Denver Regional Office training session, invited recipients to send representatives to be trained, established the agenda to present material on the LSC Survival Plan and arranged for high level corporate officials and grantee representatives from other regions to make presentations that in certain cases advocated activities that violated provisions of the Act. It should also be noted that even apart from section (1)(A), every granting agency has an affirmative duty to insure that its grantees do not expend grant funds for unallowable purposes.

The corporate officials and grantee representatives advocated a public policy of fighting threatened cuts in the

Legal Services and other Federal social benefit and entitlement programs and encouraged persons in attendance to engage in political activities including the building of networks and coalitions of organizations so as to effectively operate a nationwide grass-roots campaign to lobby Congress in support of policies advocated by the Corporation. Because the Corporation encouraged grantees to engage in activities prohibited by the Act it was in no position to discipline grantees for their violations by taking the sanction required in 42 U.S.C. § 2996e(b)(1)(A).

PROHIBITION AGAINST CREATING ORGANIZATIONS

The prohibition against the use of appropriated funds to create organizations and coalitions is contained in 42 U.S.C. § 2996f(b)(7) and reads as follows:

> "No funds made available by the Corporation under this subchapter, either by grant or contract, may be used-"
>
> "(7) To initiate the formation, or act as an organizer, of any association, federation, or similar entity, except that this paragraph shall not be construed to prohibit the provision of legal assistance to eligible clients;"

As with the training prohibition discussed above, this provision prohibits grantees and contractors of the Corporation from using funds provided by the Corporation to organize any association, federation or similar entity. However, this provision is not to be interpreted in a manner that prohibits eligible clients from receiving legal assistance.

The legislative history of this provision provides information essential to an understanding of the intent behind the statutory language. Originally the Legal Services Corporation Act of 1974 contained a more detailed prohibition against establishing organizations. In the section-by-section analysis of the House Committee on Education and Labor Report to accompany H.R. 7824, the Legal Services Corporation Act of 1974 (H.Rep. 93-247, 93rd Cong., 1st Sess. 11) the original provision was set forth and explained. The analysis stated that funds made available by the Corporation may not be used either by grantees or contractors:

> "(5) to organize, to assist to organize, or to encourage to organize, or plan for, the creation or formation of, or the structuring of, any organization, association, coalition, alliance, federation, confederation, or any similar entity, except for the provision of appropriate legal assistance in accordance with guidelines promulgated by the corporation.
>
> The Committee believes that recipients and their employees should not be permitted to utilize program funds to organize any organization, association, coalition, alliance, federation, confederation, or similar entity. The Committee expects that pursuant to guidelines issued by the corporation, recipients shall provide appropriate legal assistance to eligible clients and organizations of eligible clients. Recipients and their employees are prohibited from organizing a group, but shall be permitted to prepare papers of incorporation and render other legal assistance as necessary."

In 1977, Congress decided to clarify the prohibition and amended the original provision in Public Law 95-222, 91 Stat. 1619, December 28, 1977, to read as it does today. The House Report No. 95-310, 95th Cong., 1st Sess. 14, that accompanied the Legal Services Corporation Act Amendments of 1977 (H.R. 6666) explains the clarifying amendment as follows:

> "The vague and overly broad language in current law prohibiting the use of Corporation funds 'to assist' or 'to encourage' the organization of any group has caused legal services programs to refrain from providing the advice and legal assistance Congress intended should be available to clients who are engaged in organizing activities. The American Bar Association, among others,

> has criticized the present law as unconstitutionally vague and violative of First Amendment rights. Section 7(b)(7) cures this vagueness. *It prohibits the use of Corporation funds for direct organizing activities*, but permits advice and legal assistance to clients who may themselves be engaged in such activities.
>
> The committee recognizes a distinction between proper activities such as (1) assisting groups of poor people to organize by providing advice on matters of incorporation, by-laws, tax problems and other matters essential to the planning of an organization; (2) providing counsel to poor people regarding appropriate behavior for group members; and (3) encouraging poor people aggrieved by particular problems to consider organizing to foster joint solutions to common problems on the one hand, and those activities *that are improper* on the part of legal services programs in that they usurp the rightful role of poor people as potential members of such organizations, *namely, actually initiating the formation of or organizing directly, an association, group, or organization*." [Emphasis Added]

The legislative history makes it plain that grantees and contractors may not use funds provided by the Corporation to initiate the formation, or act as organizer, of any organization, network or coalition. However, providers of legal services may give advice to eligible clients and assist them with matters that would enable them to plan, establish and operate an organization that the clients believe is in their best interest. For example, this provision would not prohibit a fund recipient from providing legal advice necessary to establish a neighborhood day care center or a tenants' organization whenever such organizations are needed by clients for their own particular interests and direct benefit. On the other hand, recipients should not act as organizers of organizations on the basis of the recipients' perception that a particular organization would be beneficial to clients as a class or to the Legal Services Program. Also recipients should not initiate the formation of organizations where the initiating action is with the recipient and not with the clients. For example, this provision would prohibit a Corporation funded provider of legal services from organizing a group to campaign for the reduction of Defense spending on the theory there would be more funds available for Federal programs that assist poor people.

Almost without exception, each of the first-day speakers at the Denver Regional Project Directors Meeting that we named above, devoted a large portion of time to a discussion of coalition building and networking, which is the establishment of informal organizational relationships on matters of mutual interests. Ms. Connally described the State Coordinator system that the Corporation and grantees had established in each state which served as a communications link between the Corporation headquarters and an informal state-wide organization of Legal Services Program supporters comprised of various organizations and individuals. Legal Services grantee organizations served as the core of State coalitions and provided financial and other support. Mr. Houseman outlined a plan to establish what he termed as an "outside Washington lobbying entity" that he referred to as "Action for Legal Rights". He stated that the organization was scheduled to be formally incorporated within the next week. He further indicated that plan called for LSC support centers (grantee fund recipients) to become affiliated with the organization, along with outside entities such as migrant farm workers groups.

Mr. Rader described a successful campaign that his support center funded with Corporation funds in California to defeat Proposition 9, a tax reduction ballot measure. He mentioned that his program had hired four field coordinators and built a coalition from organizations such as public employee unions and organizations interested in education, elderly groups and voluntary agency groups. Many of the 30 different Corporation funded Legal Services Programs in California committed staff time to the campaign and were involved in building the coalition of organizations involved in the campaign to defeat Proposition 9.

Don Wharton from the Oregon Legal Services Program explained that the Corporation fund recipients in his state were well on their way to building a state-wide coalition dedicated to the survival of Legal Services. Oregon Legal Services Programs had assigned staff members to perform liaison functions with organizations comprising the coalition. The state-wide coordinator, a Legal Services Program deputy director, was responsible for coordinating the activities of these staff persons. Local programs were providing funds to pay the salary of a newly hired media and materials person whose efforts were devoted to the coalition.

These remarks by the above named speakers reveal that a large number of Legal Services recipients were expending funds provided by the Corporation on organizing entities such as coalitions and networks in connection with the Legal Services survival program. These organizing activities were initiated and conducted by fund recipients themselves rather than in the course of providing a direct legal service to clients. In our opinion, such activities by LSC fund recipients violated the prohibition contained in 42 U.S.C. § 2996f(b)(7) against the use of funds provided by the Corporation to form organizations. Here again, the Corporation avoided its responsibilities under 42 U.S.C. § 2996e(b)(1) to insure the compliance of recipients and their employees with the provision of the Legal Services Corporation Act of 1974 and instead encouraged grantees to engage in the prohibited activities.

PROHIBITION AGAINST ADVOCATING OR OPPOSING BALLOT MEASURES

The prohibition against the use of appropriated funds to advocate or oppose any ballot measures, initiatives or referendums is contained in 42 U.S.C. § 2996e(d)(4) and reads as follows:

> "(4) Neither the Corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment for use in advocating or opposing any ballot measures, initiatives, or referendums. However, an attorney may provide legal advice and representation as an attorney to any eligible client with respect to such client's legal rights."

This provision restricts the Corporation and its fund recipients from making use of corporate funds or any personnel or equipment belonging to any LSC program organization to support, advocate, oppose, or urge the defeat of any ballot measures, initiatives, or referendums at the State, local or national levels of Government. On the other hand, a program attorney is free to provide advice and representation, as an attorney, to an eligible client with respect to such client's legal rights.

A review of the legislative history of this provision does not shed much light on what Congress intended beyond the plain meaning of the language of the section. The Conference Report of the Legal Services Corporation Act of 1974 (S.Rep. 93-845, 93rd Cong. 2d Sess. 22) makes the following comments concerning this provision:

> "The House bill and the Senate amendment prohibited the Corporation and any recipient from making available corporate funds, program personnel, or equipment for use in advocating or opposing ballot measures, referendums, or initiatives. The Senate amendment contained an exception to this prohibition where such provision of legal advice and representation is necessary by an attorney, as an attorney, for any eligible client with respect to such client's legal rights and representation. The House bill contained no comparable provision. The conference agreement prohibits advocating or opposing such measures, but provides that an attorney may provide legal advice and representation as an attorney to any eligible client with respect to such client's legal right."

While the prohibition element of the provision is entirely clear, it might be helpful to offer our interpretation of the scope of the exception. Under the exception, a program attorney is authorized to provide legal advice and representation, as an attorney, with respect to such client's legal rights. The words "as an attorney" are significant because this restriction limits the attorney's role to that of protecting the client's rights and not of serving as a campaign manager, public relations advisor or major contributor. Persons desiring to offer a ballot measure, need legal advice to know what legal rights they have under the law of the jurisdiction in which they are located. Accordingly, a program attorney is authorized to provide eligible clients with advice concerning their legal rights to offer ballot measures. Such advice would normally contain information on the requirements of law that the client must satisfy. For example, there is a general requirement that ballot measures be circulated among residents or registered voters of the jurisdiction in the form of a petition to obtain a certain number of signatures, in order to have it placed on the ballot. Opponents of a measure frequently allege some defect(s) in the petition, such as irregularities with the qualifications of those signing the petition. Consequently, the matter may become the subject of litigation. A program attorney, as an attorney, may represent an eligible client, who is sponsoring or opposing a ballot measure where the client's legal rights to offer or oppose the petition are at stake.

On the other hand, we think that a program attorney would be precluded by the above prohibition from providing any assistance in the form of Corporate funds or program personnel and equipment to a client waging a campaign in support of, or in opposition to, a ballot measure that is already on the ballot and before the voters. In this situation, the client's rights to offer or oppose a measure are not at issue so as to require the representation of an attorney.

Prior to launching the campaign against Proposition 9, Mr. Rader drafted a legal memorandum construing 42 U.S.C. § 2996e(d)(4) as allowing program attorneys to engage in a ballot measure campaign so long as they are representing an eligible client. Mr. Rader argued that the ballot measure restriction should be construed in the same manner as the restriction on legislative advocacy contained in 42 U.S.C. § 2996f. Mr. Rader also argued that the provision requiring "representation as an attorney" in 42 U.S.C. § 2996e(d)(4) concerning ballot measures should be considered to be amended by implication, inasmuch as a similarly worded provision in 42 U.S.C. § 2996f(2)(5) was amended by Congress in 1977 to read "representation by an employee of a recipient". Therefore, according to Mr. Rader, legislative advocacy activities could be performed by non-attorney employees of recipients.

We are not persuaded by Mr. Rader's arguments. Section 42 U.S.C. § 2996e(d)(4) is a blanket prohibition on both the Corporation and recipients which is a much broader prohibition against ballot measures than is the one against legislative advocacy contained in 42 U.S.C. § 2996f(a)(5) which affects only activities of fund recipients and includes several exceptions. Also, to be effective, an amendment of a provision must be express. Amendments by implication, like repeals by implication, are not favored in the law, and generally will not be upheld by the Courts in doubtful cases. The Congress is generally not held to have changed a provision it did not have under consideration while enacting the amendment, unless the terms of the amendment are so inconsistent with the provisions of the prior law that they cannot stand together. See 1A Sutherland, Statutory Construction (4th ed. 139-140, citing cases).

In our opinion, based on Mr. Rader's description, the Corporation, the Western Center on Law and Poverty and certain other unidentified California Legal Services grantees, violated the provision of 42 U.S.C. § 2996e(d)(4) in providing funds and personnel support for the Proposition 9 Task Force that operated a large scale opposition campaign to the Proposition 9 ballot measure during the first half of calendar year 1980. Mr. Rader in his campaign against Proposition 9 expended funds made available by the Corporation. He obtained a "Special Needs" grant from the Corporation for the Proposition 9 Task Force in the amount of $61,655 and also obtained staff commitments from approximately 30 California Legal Services Programs funded by the Corporation. The cost of these staff commitments is unknown and would be very difficult to compute, considering the lapsed time. However, we know that the campaign lasted approximately 3 months and that many staff persons at field offices throughout California devoted at least half their time to the campaign. With the grant, according to Mr. Rader, the Task Force hired 4 coordinators who had experience working with poor people and in political campaigns. Funds were also expended on clerical staff, travel, printing and postage associated with campaign activities. The Task Force assembled a coalition of organizations, trained their members on the issues involved in opposing Proposition 9, and in voter registration and in get-out-the-vote techniques. The Task Force activities described by Mr. Rader were the precise sort of activities that are prohibited by the statute's injunction against using corporate funds to oppose a ballot measure that is already on the ballot and where client's legal rights are not at issue.

SUMMARY

In summary, we wish to point out that we have not made a thorough review of all the LSC documents provided us by your office concerning the LSC survival campaign. Therefore, we are unable to determine whether the January 1981 Denver Regional Project Directors Meeting is representative of LSC activities during the period in question. Indeed, we selected the material on this training session because it appeared to contain evidence indicating violations of the statutory prohibitions that you cited in your request by LSC fund recipients. After reviewing the training session material, we determined that certain LSC fund recipients had violated these statutory prohibitions, as has been described above.

Although appropriated funds were expended by these fund recipients contrary to law, we are of the opinion that the Government would be unable to recover the illegally expended sums from the recipients. In each instance the Corporation authorized and encouraged fund recipients to make the expenditures. By separate correspondence, we are recommending that the Corporation take appropriate action to amend its regulations governing the activities of fund recipients and Corporation officials in order to prohibit such expenditures in the future.

In accordance with your request, we are continuing our work on the overall investigation of the LSC survival campaign and members of our staff will contact your office from time to time to discuss this project.

Sincerely yours,

for Milton J. Socolar
Comptroller General
of the United States

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REPORT OF REVIEW AND STUDY OF
THE NATIONAL CLIENTS COUNCIL, A D.C. CORPORATION

Professor F. E. Booker
Director of Clinical Education
Notre Dame Law School
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219-239-5767

INTRODUCTION

In October, 1983 I was contacted by L.S.C. and asked if I would be willing to undertake a study and review of National Clients Council, together with a team of specialists and experts. Though I had had fairly extensive experience in an O.E.O. legal aid office in the sixties, and substantial experience with private legal aid assistance to the poor, I had no prior information or opinions concerning National Clients Council. I did not participate in any way in the selection of the other members of the team conducting this review and study, though I was favorably impressed with the level of experience in the specialties represented and the general diligence and objective attitude of the team.

All members of the team were given an orientation and preparation in which work plans and areas of responsibility were coordinated, and it was emphasized that the study must be fair and impartial, thorough, and documented, to the extent possible.

As a result of these arrangements, a study was conducted at the headquarters office of the N.C.C., and in field offices and other field locations as more particularly detailed in the report. Copies of the consultant and specialists work plans which were generally to direct our efforts are attached hereto as Exhibits One through Five. Follow-up efforts to secure additional information continued through November, 1983, and to the eve of the present report. With a few exceptions, members of the team carried out the proposed work plan to the extent that the limited and selective cooperation of the organization being studied permitted.

PERSONNEL INVOLVED IN THE REVIEW AND STUDY

The following personnel composed the team conducting the review and study:

OPERATIONS OVERVIEW AND REPORT EDITOR

Professor F. E. Booker, Professor of Law (Evidence) and Director of Clinical Legal Education at the Notre Dame Law School, Notre Dame, Indiana 46556.

Michael Losavio, Esq., Attorney for L.S.C. Mr. Losavio provided communication, coordination, logistic, and investigative support for all team members throughout the study.

AUDIT AND FINANCIAL REVIEW

Mr. Jotinder Singh.
Mr. Singh is the staff auditor for the L.S.C. Audit Department.

TRAINING REVIEW

Mr. James Gray.
Mr. Gray is a former professor of communications at American University who presently works as an expert training consultant through his own firm, Media Impact.

COMPLIANCE REVIEW

Mr. Ed McGuire, Esq.
Mr. McGuire is Deputy Regional Director of the Northern Virginia Regional Office of L.S.C. His assigned responsibility was compliance review as reflected in Exhibit Four.

The above members conducted the study and review at the Washington, D.C. National Headquarters of N.C.C.

The work of study and review at the; N.C.C. Regional Offices and other field locations were conducted by OPERATIONS OVERVIEW, MR. JOEL THIMELL, Mr. Thimell is a consultant to the L.S.C. Office of Government Relations. FINANCIAL AND MANAGEMENT REVIEW, MR. ALBERTO LOPEZ, Mr. Lopez is Acting Director of the Office of Administration of the L.S.C.

OVERALL DESCRIPTION OF THE NCC

The NCC is difficult to pin-down descriptively. To be comprehensive and accurate, the Corporation should be considered legally, structurally, and functionally.

Legally, the National Clients Council is a 501(c)(3) charitable corporation chartered September 24, 1970 under the law of the District of Columbia. The Articles have been amended once in 1974. The Corporate Charter as amended is attached as Exhibit 6. Points of particular interest in these documents are the statement of purpose of the organization in Article 3(2) which pinpoints the promotion of a more effective delivery of legal service by legal aid and legal services programs to the poor as a primary purpose. The Fifth Article is of interest in that it adjures the organization against any substantial propaganda activity or otherwise attempting to influence legislation or intervene in or participate in the campaigns of candidates for public office, or any other activity forbidden by 501(c)(3). Further provisions of that section permit reasonable compensation to persons for services rendered in furtherance of the purposes of the organization, but forbids payments to anyone for other purposes.

In one of the subsidiary reports attached hereto, there is considerable discussion and legal argument devoted to the question of whether at various points in its recent activities the National Clients Council had or had not actually violated the law, and if so, whether this was or ought to be excusable, etc. As a matter of fair focus and relevancy, it should be remembered, first, that prohibitions against such activities begin not with the statutes and regulations but with the earlier foundation documents of the National Clients Council itself, where the organization sets its face at the inception against these questionable activities. Second, it should be remembered that it was not the purpose of the present study and review to focus on and attempt to ferret out actual or possible violations of law in the activities of the studied organization, let alone arrive at a legal opinion respecting these things, or recommendations with respect to the organization. Instead, the purpose of this review and study was to determine accurately what the NCC is, what it does, and how these activities relate in efficiency and impact on the enhancement of the L.S.C.'s delivery of legal services to the poor.

Returning to the legal structure of the NCC, the next of the primary documents is the By-Laws, attached hereto as Exhibit 7. Of particular interest in the By-Laws are the Statement of Purpose, Section 1.1, which repeats the purpose of enhancing the quality of legal services delivered to the poor. Article III provides for wide-open membership. The client eligible poor are qualified, and so would be the wealthiest individual were that person to join a special interest group and profess adherence to the aims of the organization. See 3.1. Fees could be charged of members but we are advised they never have been, and the organization has been totally funded by public tax monies through L.S.C. and O.E.O. throughout its existence. See 3.2. There is an elaborate process for affiliation of other organizations. See 3.3. On April 8, 1983, Ms. Nelwynne Hollie, President of the NCC, made a written presentation to the American Bar Association Standing Committee on Legal Aid and Indigent Defendants in which she acknowledged or claimed affiliation with 16 other organizations of an unexceptionable nature. These may be found in Exhibit 8, pages 5 and 6 which is attached hereto as part of a packet of materials furnished by Executive Director Bernard Veney in substantiation of some of the activities of the National Clients Council. This packet of materials (Exhibit 8) should receive early attention as it includes several representations in which officers of NCC explain their organization and activities to outside groups, tell their own story, and put their best foot forward. Material is also included substantiating some advocacy and other activities. It should be noted that the affiliates acknowledged before the American Bar Association are merely a partial list. The Executive Director, Mr. Veney, was not able to furnish us with a full list.

While the NCC maintains regional offices at Chicago, Denver and Los Angeles (Atlanta now being shut down, and other regional administrations centered at Washington) it is important to remember that the NCC regional offices are not offices of the Regional Councils of NCC.

The By-Laws contemplate nine autonomous and separate regional councils of NCC, each incorporated out in their own territory. Their only legal connection with the national organization of NCC is that the regional councils elect or select 21 of the 28 members of the Board of Directors of the national NCC. Further, there is to be a separate and autonomous incorporated state council in each of the states in each region. In addition, there is to be a local council paired up to each provider program of Legal Services.

THE STRUCTURE AS PLANNED

The organizational structure as planned has a national office, staff, and board of directors, with regional offices of the national organization at prinicipal points of a few of the regions. The regional office structure has constricted by the closure of the Atlanta Office.

The only legal connection between the national organization and the regional, State and local councils using the name NCC is that the great majority of the directors of the national organization are selected by the regional councils. The national organization has no direct authority over or any responsibility for the activities of the regional, State and local councils. The regional, State and local councils have no direct channel of regular communication or representation, other than the director link, with the national organization.

The realities of form limit what any instrument is capable of being used for. The deliberately created hiatus in this structure between the national and the regional, State and local bodies presents a practically insurmountable obstacle to effective leadership, communication, representation, organization and support of the local client organizations, at the spear-point of legal services delivery, by the national organization. What an organizational pattern like this is good for is to insulate the parent or national organization from liability or responsiblity for what might be done by regional, State and local groups.

The point of this observation is not to attach blame or raise innuendo with respect to the studied organization. The point is that the structure of organization chosen inevitably presents a severe problem to the studied organization in attempting to function with respect to the upgrading of the delivery of legal services to the actual poor clientele in the various hinterlands.

The provision for the election of regional and State representatives outlined in Section 3.5 of the By-Laws is based on a single unit vote for each local program council without regard to the number of clients served. These local unit votes elect a State Chairperson and Vice-Chairperson at a Regional Conference, and those at the Regional Conference elect two or three Directors (depending on the number of states in the region; no demography, only geography) and those two or three so elected form the body of 21 Directors of the National Organization. It is impossible to say from the National Headquarters how these representatives were actually selected and how many persons actually participated at each stage. This is a natural consequence of the severence of the national from the regional, State and local programs. If all occurs in this process according to plan, the resulting representation is geographic rather than democratic and is three representative steps removed from the individual poor clients. There is an unresolved conflict in the matter of the election of At-Large Directors where the amended Articles of Incorporation, Exhibit 6, mandate election by those attending the National Conference whereas the By-Laws, Section 4.3(b) provide for a different method. This would seem to have been necessitated by the abandonment of the National Conference, and indeed, that Conference no doubt ameliorated to some extent the representation problems, but as matters now stand, the structure itself tends to produce an attenuated and highly removed claim to representation of the poor clientele. It could and no doubt would be argued on behalf of the organization that the abiding and overwhelming interest of the persons involved in aiding poor clients ought to be taken into account in evaluating their representative capacity.

Other members of the Board are the President Emeritus, three at large members, and three organizational members, for a total of 28 Directors.

The Executive Director of the organization advises us that the size of the Board makes it difficult and expensive to meet as frequently as would be liked, or for them to participate as closely as they might wish. There is an Executive Committee (See Section 7.3 of the By-Laws) but it consists of 14 members and is too large to be effective in its function as an executive committee in the opinion of the Executive Director, Mr. Veney. Mr. Veney advises us that there are considerations before the Board to reduce or limit the size of these bodies.

The By-Laws further provide for committees on personnel, finance, nominations and resolutions in Article 7.4 to 7.7, and though it is contemplated that these might function separately with the Corporate Secretary keeping minutes, they in fact meet concurrently with the main Board and make oral reports.

The final element to be noted in the By-Laws would seem to be Section 9.2 with sound restrictions upon money disbursement without express authority. There is on-going inquiry in this field, on behalf of L.S.C.

The organization as planned has serious difficulties. As it actually exists, important elements of regional, State, and local council structure contemplated by the organization plan do not exist. Some states are inactive or only minimally active, and the National Executive Director was unable to provide or generate for us any list of the local clients councils of the National Clients Council. He estimated that there were approximately 100 such organizations functioning, but in the one instance in which we were able to independently verify one of the National Executive Director's estimates about local activity, the Director's estimate proved to be astonishingly optimistic. As to local, State, and regional file matter at the national headquarters, we were denied access to these files.

CONDUCT OF THE STUDY

The Washington Headquarters portion of the study was conducted at the office of the National Clients Council Wednesday through Friday, October 26 - 28, 1983, during regular working hours. I spent the great majority of my time conferring with Mr. Berney Veney, the Executive Director of the National Organization, in the conference room of his offices, as did Mr. Losavio, and Mr. McGuire on the two days he was present. Mr. Gray and Mr. Singh were with us at some points, but spent most of their time with NCC staff members working in their specialities.

Mr. Veney has been Executive Director of National Clients Council (the national organization) since January 1975. His credentials include a college degree and graduate study, honors, and a wealth of experience in field work and executive administration of public and quasi public agencies related to social, human, and poverty problems. I attach the biographical resume he was kind enough to furnish me as Exhibit 9 to this report. Mr. Veney is a very capable man, articulate, judicious, friendly, and likable. While Mr. Veney was undoubtedly thoroughly in charge of his office and staff, I do not mean this in any unfavorable sense, as my limited opportunity to observe staff and worker morale indicated a comfortable and harmonious atmosphere. The staff were busily engaged upon their various assigned duties.

The atmosphere was somewhat strained at the outset by Mr. Veney's decision to tape record all our conversations. He stated plainly at the outset that he regarded this study as an attack upon him and his organization. I corrected Mr. Veney's impression, it was arranged for L.S.C. taped transcripts to be made at the same time, and we got on with it.

In the succeeding three days, Mr. Veney responded to our questions with a friendly, conversational, anecdotal, style, with a tendency to move rapidly from discussing one situation to another. The overall effect was unfortunately more charming than informative or accurate. Hard evidence or wirtten documentation to substantiate the good and promising things and encouraging estimates which Mr. Veney gave us orally proved to be very thin on the ground, and our attempts to verify and authenticate these oral assertions from the general correspondence files or the regional and local files were blocked by a flat refusal.

The refusal to be given access to the files was not something into which Mr. Veney was provoked or suddenly tricked. The desire for file access had arisen in correspondence prior to the study, and it arose on the first and second day of our meetings with Mr. Veney. The study team cautioned Mr. Veney that he was obliged to permit access to these documents, and that we would recurr to the matter, but we elected to go as far as we could oral inquiry and such selected papers as Mr. Veney chose to furnish, in the hope that the matter would resolve itself in some non-controversial fashion. Mr. Veney was urged to seek counsel from Ms. Hollie, or other Board members, or his own legal counsel and not to persist in this position. The relevancy of the inquiry was carefully explained to him as the taped transcript will indicate. Mr. Veney chose to adamantly persist not only during the Washington inquiry, but by later instructing the Chicago office to close all of its files to the field inquiry team. I am frankly unable to understand the impression generated by Mr. McGuire's report that we were given access to a great deal of material, or that the refusal we encountered might not be significant. Perhaps because Mr. McGuire was not with us on the third day of the study, and apparently is not aware of the later order by Mr. Veney to deny access to the Chicago Regional Office files, he formed such an impression. At one point it proved possible to conduct an on-site, documentary, independent verification of some of the information we were being given. Mr. Veney estimated for us that the general membership rolls or lists of NCC included 7,000 to 9,000 members. In fact, the President of the Corporation, Ms. Hollie, is apparently under the impression that there are about 15,000 members. Mr. Losavio and I asked to see the actual membership list. This request was received with courtesy but with such astonishment that I must conclude that we are the first visitors who have ever asked to actually verify these records. The request was complied with and we were given five boxes of 4 x 5 file cards. Each poor client out in the field who wants to join NCC is given one of these 4 x 5 cards to complete and return to the Corporation. This has been the practice followed for a great many years. Four of the boxes were closely packed and the fifth was partially filled. The cards were filed in alphabetical order. A ruler measurement and count disclosed that there were 79 cards per inch in the files. The incomplete box was compressed to a similar density and the cards measured there. There were a total of 43.25 inches of file cards, calculating 80 cards per inch (to be generous to the organization) this results in a total membership card file of 3,460 names. It would be my best estimate that this figure is accurate plus or minus 200. Plus or minus 500 may be used without materially affecting the astonishing gap between the actual membership and the claimed membership.

To discover the typical content, the letter "N" was examined and 102 cards taken, which starts Patricia Ann Naimo through Sara E. Palmer. Of these cards about half were undated. Those showing a date showed a year breakdown as follows:

1975	1
1976	0
1977	9
1978	10
1979	13
1980	14
1981	4
1982	1
1983	0

Sixteen of the cards indicated a claim of Client Board membership, though a number of organizations cited were not in fact legal service providers.

The breakdown by state showed members from 27 states and the Virgin Islands with a high of 15 from New Jersey and a low of 1 from Virginia among the jurisdictions listed.

At this point in the examination a secretary amused by our diligent examination, or perhaps merely wishing to be helpful, remarked that if we wished to see cards, we should examine these, whereupon he produced another 2 and 3/4 inches of cards in a box which had never been processed. Using the same rate of computation, this is an additional 220 membership cards. This packet included a considerable number of 1982 New Jersey cards, though some of the cards in the file dated as far back as 1979. When inquiry was made of Mr. Veney about why these cards had not been processed and put in the membership files, neither he nor the staff had any answer to this question. If an impression at this point is of any value, I did not form the impression that these cards had been denied the simple process of being added to the large dead membership roll on any principle of selection perverse or otherwise. Rather, it was simply a matter of no practical significance to the headquarters personnel who, where and what these people, their members, were.

Though Ms. Hollie was under the impression in her conversation with Mr. Losavio that there was currently on-going a regular newsletter distribution to approximately 15,000 members, the fact is that the file card boxes we examined are the sole membership files of the NCC, and nothing is done with this material nor any lists taken from them. There is no process to up-date or weed-out these files. It was a matter of some astonishment that we should be interested in them. There is no accounting for the fact that representative sampling showed almost no addition to these membership lists in 1982 and 1983, though we know from the reports of the field team that membership cards are being regularly distributed in the field. Whether these cards are being completed and anyone is joining we do not know. If people are joining, we do not know what is being done with their attempt to establish contact by membership with the National Organization.

This one brief instance where we were able to conduct documentary verification indicates several things. First, it shows an appalling lack of interest by the National Clients Council in the individual poor client members. Second, it indicates that the President of the NCC and presumably the Board are very ill-informed with respect to their own organization and its work. Third, it gives us an objective sample by which to consider the accuracy of the other estimates and oral assertions that the Executive Director of the NCC made to the team. Fourth, it shows the absolute necessity for compliance with the documentary and file inspection conditions. Unfortunately, Mr. McGuire was absent from this brief verification exercise, which might have altered his generous acceptance of unsupported oral assertions by the Executive Director.

Returning to the one other matter in which it was possible to make a physical verification, the premises of the national office consist of (from front to back) a conference room approximately 10 x 25; a reception area approximately 25 x 12 (irregular); hallway with two restrooms and coat closets; bookkeepers office about 15 x 25 (irregular); postage and repreoduction area about 12 x 20 (irregular); small open closet for supplies approximately 6 x 6; large work area with subdividers (could take six has two) approximately 50 x 25 most files located here; work and secretarial room (trainer) 15 x 30 (irregular); Mr. Veney's office approximately 17 x 12; and storage room approximately 12 x 15 at the rear. All of this work space is located on the fifth floor of a very small bank building (National Bank of Washington). There is no evidence of waste, luxury or inefficiency in the furnishings or set-up of the physical property of the premises. The terms and details of the lease are unknown to your reporter.

Turning now to the particular areas of inquiry addressed during our visit, we begin with public advocacy. Mr. McGuire's report attached hereto as Exhibit 10, is an accurate if partial presentation of what Mr. Veney told us. Unfortunately, the circumspect and limited oral account we were given of public advocacy does not square with past monitoring reports or the findings of the members of the present team assigned to study regional and field situations. It is sufficient in this summary to recall the voter registration, block grant, and Alliance for Legal Rights (ALR) cooperation and activities. These are not simply past issues. See the draft copy of the National Clients Council Board of Director's meeting February 10 - 12, 1983 at New Orleans, pages 7 and 8 and attachments E-1 and E-2 concerning the on-going and future nature of the entanglement with a political action organization (Alliance for Legal Rights). Attached hereto as Exhibit 11. These things must be considered in the light of the difficulty of pinning down and verifying any quantity of productive activity in public advocacy, training, technical assistance, or client representation adequate to account for the expenditure of the money and time being considered. Also to be considered is the fact that the National Clients Council professes to have no work plan for the coming year, though they seek funding to support this. See Application for Refunding of October 13, 1983, Program Narrative, attached hereto as Exhibit 12. The request is for over half a million dollars. Further, with regard to Mr. McGuire's report, it is to be regretted that the unavoidable press of time, my busy trial calendar of our poverty clinic cases, and the distance between us prevented an opportunity for Mr. McGuire to revise his report. The memo of Mr. Losavio attached hereto as Exhibit 13 details certain additional information not considered in Mr. McGuire's report.

With respect to resource bank services to client eligible individuals, Mr. Veney advised us that NCC does not provide these although they would like to get into the business.

As to the development of a client network for insuring the accountability of legal services programs, the first problem is the absence of any effective client membership structure or any plan to improve the existing deficiency. The further problem is that the entire idea of monitoring the quality of legal services actually delivered to actual poor clients by legal services programs is rejected by the NCC. Their position is that they lack the competence to second-guess the legal judgements of the attorneys, and that inquiries as to the satisfaction or lack thereof of the clients are without substance. The lack of interest in this aspect of the problem of legal service, which is an area where a client organization could be strong and valuable, seems unfortunate. The question of whether poor clients are treated with dignity, their affairs handled promptly, and whether are brought to understand what is happening to them in the legal arena, is not an insignificant work.

Efforts to preserve the LSC are well documented in prior monitoring reports. It is interesting to note that Mr. Gray's report indicates that a different attitude toward LSC has lately come to inform the training sessions.

With respect to fund-raising, the Executive Director was reluctant to discuss the plans that are being considered as an alternative to public grant funding of the organization. The NCC has been entirely supported by grants from LSC during its entire existence. It was, however, discouraging to note that there had been no organized effort or plan to service the local provider programs with respect to the mandated $1,000 or 1/4 of 1% money that is now available.

Mr. Gray's report attached hereto as Exhibit 14 is comprehensive and is fully concurred in. (So also are the important reports of the field team, Joel Thimell and Alberto Lopez, with addendum, also attached as part of Exhibit 14 so that all reports of studies including visits out of Washington may be found in one place). Once again, it is interesting to note that the Executive Director repeatedly asserted to the team that there were absolutely no training materials, each session being tailored to the specific group, and only throw-away easel paper being used. Inquiry with other staff members and team members in attendance at the field sessions by (Mr. Gray) proved this to be inaccurate. Mr. Gray's report evaluates this material.

The problem of the representation by the national organization of the interests, priorities and problems of the clients of the Legal Services Corporation has been touched on previously. There are about 35,000,000 client eligible individuals in the United States. The Legal Services Corporation must see to the provision of essential civil legal aid for these persons. The National Clients Council has generated a membership of about 3,500. It does not communicate with them and they do not communicate with it in any regularized fashion and there is no plan to change this. There is no system to monitor the quality of the delivery of legal services to poor people at the actual delivery point and no interest or intent in developing one. The selection of directors for the national organization would not pass court scrutiny in any commercial corporation or as a nominating system in any political party. The principle of representation involved is aristocratic. The Directors and Officers know what the client population need and want by reason of common ties of economic class and their own life experience. Representation is not enhanced by the fact that there is no systematized and regular input of information to the national organization from the clients and the field. A fairly elitist attitude was expressed to us, that the clients do not know what they need. There is certainly no need for a communication channel if one believes that the clients have little or nothing of value to contribute. Most of the flow is downward, and a disturbing proportion of it seems unrelated to legal services but directed instead toward advising the recipients what they should be thinking about and what they should think about it. Examples are, the NCC distribution E and D mailings for July 31, 1981, August 18, 1981, August 31, 1981, September 17, 1981, September 28, 1981, October 2, 1981, October 13, 1981, October 23, 1981, November 12, 1981, November 25, 1981, November 17, 1981, December 4, 1981, March 27, 1981, March 13, 1981, March 7, 1981, February 11, 1981, January 27, 1981, January 13, 1981, June 11, 1981, June 5, 1981, May 15, 1981, March 12, 1982, July 14, 1982, April 16, 1982, April 14, 1982, March 12, 1982, December 29, 1982, December 20, 1982, December 5, 1982, November 17, 1982, September 27, 1982, November 1, 1982, September 30, 1982, October 26, 1982, July 22, 1983, June 24, 1983, June 1, 1983, February 4, 1983, April 4, 1983, April 27, 1983.

In addition to all of the other problems, there are serious problems concerning accounting for and handling of money. The memorandum of Dan Nusbaum describing Mr. Jo Singh's initial findings is attached hereto as Exhibit 15. These are grave matters and are peculiarly unbecoming on the part of persons claiming to speak for the poor in administering public money granted for the benefit of the poor. These matters are under on-going investigation.

EVALUATION OF NCC ACTIVITIES

What does NCC do? It is an organization without any formal or structured work plan or goals. It has no system to evaluate its personnel or their performance. Communications upward to its own Board of Directors and downward to its Regional Offices are inadequate. Communication with subordinate structures and the client population is practically non-existent with the exception of pre-packaged printed materials on issues frequently far removed from the delivery of legal services to the poor.

The Executive Director describes the function of the organization as being like a fire department. They answer telephone requests when these come in. Seventy-five percent of their business is said to be conducted by telephone. Just as personnel evaluation and cost center accounting, have not been installed though recommended in prior monitorings, so also, there is no telephone log whatever. With respect to the estimated 25% to 30% of the claimed training, technical assistance, and advocacy reflected in writing, the organization have elected to close all access to their files so that no verification is possible.

The truth is, we do not know what the National Clients Council in fact does. We tried very hard to learn this in our study. We were given a very favorable oral story and estimates by the Executive Director, and some limited documentation which he had selected which tended to support his assertions. Information from other sources by the field study team is substantially inconsistent with this picture. Furthermore, where we were able to penetrate in a few instances beyond the rhetoric to documentary verification, the rhetoric proved to be grossly inaccurate and the facts most disturbing. Added to this, we were denied access to routine, normal files for the purposes of attempting to verify the sunny, oral assertions we were being given. To this situation I can but apply the reasoning that would be applied in any American Court to such a situation. Where a party has control of relevant evidence and refuses to produce it or destroys it, it must be inferred that it is because the evidence if produced would be harmful to him.

The question remains, what does the NCC do to enhance the quality of legal services delivered under the auspices of LSC to the poor clients of America? The only answer we can make is, very little that we can discover or authenticate, and certainly nothing that would justify the sums of tax money that have been poured into this organization.

The concept of accountability by the provider of legal services to the client and the client community was one of the core ideas which generated the NCC. This accountability is an excellent and essential principle. The effort to implement it effectively in the future should not be abandoned, but intensified. It is a bitter irony that the NCC itself should so completely reject all accountability for itself.

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January 24, 1984

Professor Frank Booker
Notre Dame Law School
Notre Dame, Indiana 46556

SUBJECT: Monitoring at National
Clients Council (NCC)

Dear Professor Booker:

As a follow-up to our preliminary report on NCC dated November 21, 1983, Kwesi Wood, Staff Auditor, and I conducted a detailed review of the accounting and financial reporting systems of NCC. The follow-up review was necessitated because of the problems noted in the preliminary report. These problems are summarized below;

- Lack of any formal policies related to travel expenses and the lack of adequate documentation for certain reimbursements to staff,
- Advance approval of staff travel plans by Mr. Veney is only required when it appears that travel expenses will exceed the budgeted amount; however, travel advances to staff are approved by Mr. Veney,
- We were informed that car rental expenses had been incurred to enable Mr. Veney to commute to and from his home in Columbia, Maryland, to the NCC office in downtown D.C.,
- Staff was reimbursed $14 per day for meals on occasions when required to work away from office but still in the city of primary employment. Mr. Veney has also incurred expenses for lodging in Washington, D.C.,

- A salary advance of approximately $6,500 to Mr. Veney was outstanding at the time of our visit, and
- Reimbursements were made to staff for "consumable supplies" and "other expenses" for which no supporting documentation was submitted.

Scope of Work

Our objectives in the second review were to ascertain if the balances reflected in certain selected expense accounts as reported in NCC's general ledger at September 30, 1983, represented expenditures which could be considered reasonable and necessary, and whether such expenditures were eligible charges to the LSC grant under the criteria stated in Chapter 4 of the Audit and Accounting Guide for Recipients and Auditors. Our work included a review of the majority of expenditures incurred by NCC during the first nine months of 1983. Our review was in the nature of an investigation to substantiate the balances in some expense accounts, and should not be considered an examination conducted in accordance with generally accepted auditing standards.

The focus of our work was on the verification of staff travel expenses incurred by NCC as reported in the schedules prepared by NCC staff at our request. These schedules, as well as other information we needed for our analysis, were taken from the accounting records of NCC and verified to the extent possible against third party documentation such as master bills for airline tickets and master bills for hotels. Because of the numerous questioned costs and other problems that were noted during our review of staff travel expenses, we extended the scope of our review to include almost all of the travel expenses incurred by NCC during the first nine months in 1983. In addition to the staff travel schedules prepared by NCC's staff, we have also prepared numerous schedules on travel expenses to highlight the problems noted in our report.

We analyzed other expense accounts and tested cash disbursements to determine whether the problems related to travel expenses, such as inadequate documentation, were also prevalent for non-travel related expenditures. The accounts selected for analysis were salaries, rent, consumable supplies, other expenses, consultant fees, employee benefits and equipment rental. The results of our analysis of these accounts are noted in this report.

Results of Work

The second review has confirmed the findings as noted in our preliminary report on NCC referred to earlier. All expenditures incurred by NCC which do not comply with the provisions of Chapter 4 of the Audit Guide have been questioned by the Audit Division. Costs have been questioned primarily for two reasons: a) lack of adequate supporting documentation; and b) whether they are reasonable or necessary for carrying out the functions of the program. The questioned costs will need to be resolved in accordance with LSC policies. NCC has also incurred expenditures the nature of which needs to be explained by NCC before a decision can be made regarding their eligibility. These types of expenditures consist primarily of airline tickets for Mr. Veney, certain expenditures incurred while staying at hotels and fees paid to consultants. As of now, we do not have enough information to make a determination regarding the eligibility of such expenditures.

The attached Schedules indicate the expenditures incurred on the various operations of the program which need to be highlighted. It is possible that other members of the monitoring team will spot inconsistencies between their understanding of the operations of NCC and what is reflected in the financial records. We are requesting that these members bring to the attention of the Audit Division any costs which have not been questioned but which in their opinion appear to be ineligible expenses. No attempt has been made by the reviewers to ascertain if the activities on which LSC funds have been expended were in compliance with the LSC Act and regulations other than what was apparent from the financial records.

In view of the denial of refunding proceedings currently in progress against NCC, no recommendations have been made to improve the system of internal accounting control. The remaining portion of this report discusses our significant findings during the review.

Travel

Excluding salaries paid to NCC staff, travel expenses represent the largest category of expenditures charged against the LSC grant. As of September 30, 1983, NCC had expended $86,289.86 on various types of travel. This does not include the travel related to training meetings funded by the SHARE grant (also LSC funds). In spite of the large travel related costs, NCC does not have written policies concerning travel for staff and board members. In the absence of written policies, a verbal understanding exists regarding travel, which limits the per diem to $14 for food, and $26 for lodging. The traveler is also paid $20 per trip for ground transportation and, where applicable, $25 a day for baby sitting charges. If lodging and ground transportation charges in excess of $26 and $20, are claimed, then the traveler is required to submit documentation, i.e., hotel bills, receipts from cab drivers, etc, to support the claim. We noted that except for Ms. Nelwynne Hollie, a board member, other travelers are generally not submitting documentation to support their claims over the per diem rate.

NCC also does not adequately account for the travel advances provided to travelers. These advances are expensed when paid, even when the traveler is given an advance for lodging which exceeds $26 and for which hotel bills are to be submitted. The proper accounting for advances would require them to be treated as temporary loans to the traveler until the supporting documentation, where necessary, is submitted. At a minimum, travelers should be required to submit an expense report to account for the funds that were advanced.

Although further research needs to be conducted, it is our understanding that NCC should include in the employees' gross wages (as reported on their W-2s), all travel expenses which are not accounted for to the employer. This is not currently being done.

Staff Travel

After our initial visit, we asked NCC to prepare a schedule of all travel undertaken by NCC staff during the first three quarters of 1983. In response to that request, NCC's staff prepared Schedule A, which is attached to this report. Schedule A is supposed to indicate the purpose, dates, place of travel and the cost incurred on each trip taken by NCC staff. The information on Schedule A was verified against the documentation generated internally by NCC and, to the extent possible, against the invoices of third parties. Our verification procedures disclosed that significant staff travel costs were not included on the schedule, and that some airfare expenses as reported on their schedule, could not be verified against the master bills received from the airlines. As yet, we have not asked for an explanation for the discrepancy between staff travel that has been incurred and the travel as reported on NCC's schedule.

Most NCC employees have credit cards which can only be used for charging rental cars and airline tickets. National Car Rental and American Airlines periodically send statements to NCC for payment. Since these statements indicate the charges for car rentals and airline tickets, it was possible to get third party documentation to support the charges incurred.

No pattern of staff travel is discernible from Schedule A; however, some of the travel is for the purpose of attending various Client Council meetings. A review of only the financial records is insufficient to enable LSC to ascertain if all traval expenditures charged to the LSC grant by NCC are for bonafide business travel. We suggest that NCC be asked to provide more information about the purposes for undertaking each trip and that this information be used to determine if the costs incurred on the trip are valid expenditures.

Airfare

For the first four months of 1983, the airline's master bills indicate the names of the passengers, amounts charged and the dates the ticket were issued. During that time, the airline was also sending copies of the tickets with the master bill. Beginning in May 1983, the master bill format was changed to indicate the place of origin, the stops along the way and the destination of the flight in addition to the information that was indicated in the earlier months. We obtained copies of the master bills for the first nine months of 1983, and checked the names and the amounts on the master bill with Schedule A. Since the information regarding origin and destination of the flight was not available on the master bills for the first four months of 1983, the places of travel indicated on Schedule A could not be verified. For the tickets billed after April 1983, the destination was verified on a test check basis. Our findings are as follows.

a) Numerous trips were undertaken by Mr. Veney in 1983 which were not included on Schedule A by NCC. As indicated in Schedule A (I), the total of such airline tickets is $7,969.50. Schedule A (I) also includes the charges for airfare for staff which could not be traced to the staff travel schedule. Where possible, the itinerary as printed on the master bill is included on Schedule A (I). We did not ascertain from NCC the reason for not including these trips on Schedule A nor did we have any information about the purposes of these trips. One possible explanation could be that these costs are to be refunded to NCC from other organizations and were therefore not included on Schedule A. We did note that frequent trips to New York are being made. For instance, on September 2, 1983, (3) tickets from New York to Washington, D.C. and (2) tickets from Washington, D.C. to New York were issued for Bernie Veney. We have not determine if any refunds were made at a subsequent date for tickets issued on September 2. Schedule G consists of pages copied from the official airlines guide and can be referred to to ascertain the cities in which the airports are located.

b) On August 2, 1983, a ticket was issued to D. Veney for $738 for a round trip between Baltimore and Seattle. On July 29 a ticket was issued to "V. Bernard" for $394 for a trip from Baltimore to Seattle and back to Washington, D.C. National. Travel advance documents indicate that the trip to Seattle was undertaken for the Washington State meeting August 5-7, 1983, and the NBA Annual meeting August 7-11, 1983. For this trip Mr. Veney took two travel advances totalling $633 ($465 for the August 5-11, 1983 stay and $168 for the extented stay on August 11-13, 1983). In addition, there is a ticket for $59 issued to Darrell Veney on August 12, 1983 which has the itinerary of Seattle - Denver - Washington, D.C. and another ticket issued to Bernard Veney for $273 with the itinerary Seattle - Denver - Washington, D.C.

Darrell or D. Veney is not an employee of NCC nor do we know why D. Veney's ticket was charged to NCC. We recommend that NCC be asked to explain why D/Darrell Veney's airfare was charged to NCC. It should also be noted that $738 for airfare has been reported by NCC as staff travel for the trip by Irma Thearance from Chicago to Los Angeles and back for the Training of Trainers meeting in Los Angeles July 22-29, 1983. We could not verify the $738 ticket for Ms. Thearance from the master bill. At the same time there is a ticket for $429 for Ms. Thearance from Chicago - Denver - Burbank - San Diego - Denver issued on July 26, 1983 which has not been included on the staff travel schedule. In the absence of any explanation from NCC it is difficult to come to a conclusion on whether the $738 ticket or the $429 was used by Ms. Thearance to go to Los Angeles or whether she went to Los Angeles twice.

We do not know if the date of issue of tickets on the master bill precedes or succeeds or if it is the actual date of travel; however, it is unlikely that two tickets for Ms. Thearance's trip to Los Angeles were purchased in the last part of July 1983. Moreover, as Ms. Thearance checked into the Burbank Airport Hilton on July 22, 1983, we are not sure how the ticket issued July 26, 1983 could have been used by her to travel to Los Angeles.

c) A ticket issued on August 20, 1983 from La Guardia to Baltimore has C. B. Veney as the passenger.

Hotel Bills

As noted previously, NCC's unwritten policies require travelers to submit their hotel bills as supporting documentation only when the cost of lodging exceeds $26 per day. It is our opinion that travelers should submit supporting documentation for all lodging expenses incurred and paid for by NCC. The following are the more significant problems we have noted based on our review of lodging expenses.

1. The majority of travelers do not submit supporting documentaion even when the cost of lodging exceeds $26 per day. This is a contravention of NCC's own policies. All such expenditures have been noted as questioned costs.

2. Employees of NCC have incurred lodging expenses while working in the city of their normal employment. Although this may be necessary on rare occasions, the reason for incurring such expenses should be thoroughly documented and approved by an appropriate person at NCC. The following are questioned costs because the necessity of incurring the expense has not been established.

   - On November 8-10, 1982, Mr. & Mrs. Veney stayed at the General Scott Inn located on Rhode Island Avenue, N.W. Washington, D.C. Expenses totaling $177.90 were incurred and charged to NCC. The reason for staying in the hotel was not documented.

   - Brenda Fennell, an employee in the Washington office, incurred lodging expenses of $101 for a Regional III Quarterly meeting held in Washington, D.C. on February 25-27, 1983. The need to stay in a hotel during the meeting was not documented.

   - Irma Thearance, an employee in the Chicago office, incurred lodging expenses of $39.59 for a meeting held in Chicago on February 13-15, 1983. The need to stay in a hotel during the meeting was not documented.

   - B. Veney stayed at a hotel in Washington, D.C. at a cost of $54.30 on March 16,1983. The necessity of staying in a hotel was not documented.

3. We have noted that in some cases, Mr. Veney has stayed in hotel rooms that have cost well in excess of $100 per night. There was no explanation in NCC's files to justify the incurring of such expenditures. We have questioned these costs because we do not feel it is necessary or reasonable to stay in such high cost hotels for the benefit of the program.

   A Training of Trainers (TOT) seminar was held in Los Angeles during July 25-29, 1983 (we are not certain about the dates), which most of NCC's employees attended. Mr. Veney, Ms. Bledsoe, Mr. Marquez, Ms. Thearance and Ms. Fennell went to Los Angeles and stayed at the Burbank Airport Hilton on July 21-25, 1983 (some stayed from July 22-24, 1983). For the four days in the Burbank Hilton hotel, Mr. Veney stayed in a room that cost $180.20 a day. During his stay at the hotel, Mr. Veney incurred room service charges of $28.98. There is also a single dinner charge of $165.41 on Mr. Veney's bill. A handwritten explanation on the hotel bill for the $165.41 is that the charge was for a staff dinner.

   We were not able to ascertain if the presence of NCC staff in Los Angeles during July 21-24, 1983, was necessitated by the TOT training since all of the staff moved into the accommodations provided by Occidental College (where it appears that the training was held), on July 25-29, where room and board per day cost only $38.

4. No justification, explanation or approval has been noted for travel expenses incurred on weekends. When expenses are incurred outside the normal hours of operation the purpose and necessity of the travel should be thoroughly documented.

5. Mr. Veney incurred charges of $171.60 at the Americana Snow King Resort in Jackson, Wyoming. This travel related to 1982 and, therefore, does not show up on

Schedule A. Further investigation of the reason for making this trip needs to be made.

6. Mr. Veney received two travel advances for a trip to Kalamazoo, MI, on March 3-6, 1983. As a result, Mr. Veney received two separate payments for lodging on March 4-5, 1983. As of the time of our visit, the extra payment of $73.90 had not been returned to NCC. After we had inquired about the double payment, we were informed that the excess advance would be refunded by Mr. Veney.

Meal Allowance

As noted earlier in this report, travelers are given a meal allowance of $14 per day while traveling on behalf of NCC. While we do not believe that $14 a day for meals is an unreasonable amount, it is our opinion that the travelers should be required to provide an accounting of the expenses incurred to NCC, especially when the funds are provided in advance of the travel being taken.

We have taken exception to NCC's policy of providing meal allowances to staff when the employee is attending meetings or on local travel status. We have questioned all such expenditures on the grounds that we do not believe they are reasonable or necessary for the conduct of business by NCC. An example of these types of expenditures would be when NCC staff is provided meal money to attend LSC board meetings which are held at the GSA auditorium, less than a mile from NCC's office.

Car Rentals

Though car rentals have been included in Schedule A, the expenditures incurred for the rental does not in most instances indicate the true purpose of renting the car. Schedule A (2) includes information which can be analyzed to come to a conclusion regarding the reasonableness or the necessity of incurring car rental expenditures. The renter column on the schedule indicates the employees whose credit card was used to rent the car. The column captioned "for benefit of" indicates the name of the person who actually used the rented car.

Mr. Veney indicated to the monitoring team that all cars rented in the Washington - Baltimore area were rented by NCC for the purposes of commuting from his home in Columbia, Maryland, to the office in downtown D.C. Mr. Veney has provided the following written explanation in response to a question put to him regarding cars rented in Washington, D.C.

> "The Executive Director is the only person who on any regular basis uses rental cars in the city of office location. The rental of such cars is most often charged to NCC Air Travel Cards and are those issued to either Sallie Lucas or Brenda Fennell. Bills for such rentals are sent to NCC Headquarters.
>
> Car rental in the home city has not been considered a perquisite for the Executive Director. It is an expenditure dictated by out of city residence, the lack of public transportation to that residence, and the fact that "normal" work hours include a substantial number of early morning, late evening and weekend work.
>
> Cars are, on occasions, retained on days when the Executive Director is out of town to take advantage of the lesser cost of weekly rentals and/or when a business trip covers a Friday departure and a Sunday return."

Car rental costs incurred by staff in the city where the office is located have been considered questioned costs; however, if cars are rented in cities other than which the office is located then only the ground travel allowance has been considered a questioned cost (we do not see the need to be provided with a ground travel allowance at the same time one has rented a car). As indicated on Schedule A (2), total questioned costs for car rental are $10,705.49, of which $10,069.51 appears to pertain to Mr. Veney's commuting expenditures in the Washington, D.C. metropolitian area.

Ground Travel Allowance

A standard ground allowance of $20 per trip is paid to staff. This allowance is supposed to cover ground transportation in the city of departure and the city of destination. If the itinerary includes travel to more than one city, then the allowance is also increased. Any claim for reimbursement for ground travel over $20 has to be accompanied by supporting documentation. This allowance has been considered a questioned cost if excess reimbursement was made without supporting documentation or if a car was rented on a trip. However, it is our opinion that travelers receiving these payments should be required to report the actual expenses incurred to NCC. Any cash received which is not used by the traveler should be returned to NCC.

Babysitting Payments

A payment of $25 a day is made for babysitting to women staff and board members with children who are on travel status. The recipients of the payment do not usually submit documentation supporting the expenditure of funds for this purpose. The payments have been questioned only if made to staff for travel in the city in which the office is located.

Board Travel

A very significant portion of the travel costs incurred by the board members relate to the board meeting held at the Marriott Hotel in New Orleans during February 10-13, 1983. Costs incurred for the board meeting and other travel costs by board members are included in Schedule B. The bill from the Marriott hotel was $8,577.68, per our calculations, and included lodging charges and charges for a dinner on February 11, 1983, for 91 people. Lodging charges which total $6066.83, are composed primarily of room rent of $66 a day. The hotel bill indicates that during Mr. Veney's stay at the Marriott, $15.75 was charged to his room for movies and $68.87 for room service and cafeteria charges. The following charges on the hotel bill need to be clarified by NCC before any conclusion can be made regarding their eligibility.

- R. Stanley, G. Vanness, B. Veney and E. Williams had two room charges of $66 each for February 5, 1983 against their name.

- C. Garrett, G. Vanness and Mr. Veney had $148 as room charges for February 12, 1983.

- The reason for ordering dinner for 91 people on February 11, 1983. The dinner cost NCC $1,840.00. The cash receipts journal indicates that NCC was partially refunded for the dinner by some board members and various legal services programs; however, our review of the cash receipts journal shows that only $971 of cash receipts have been clearly marked as refunds for the dinner.

- The final meeting on Saturday February 12, 1983 was held from 9 a.m. to 1 p.m. We have not been able to determine why it was necessary to incur room charges for February 12, and 13 1983.

- Room charges were paid for some participants who are not board members. N. Moore ($66), E. Ackel ($66) and A Slaughter ($66). A notation made by NCC indicates that $132.00 was paid for no shows. An explanation needs to be made for these charges.

- NCC paid $575 for the airfare of the spouse of I. Tonn. NCC explained that the spouse had a leg operation (propably amputation) and could not be left alone if I. Tonn was to attend the board meeting.

- $7,536 reimbursed to N. Hollie by NCC for travel costs has not been included on Schedule B, as some of these costs have been refunded to NCC by organizations like the ABA, or are to be refunded by such organizations. Some of these refunds are due from Reggie. In 1983, NCC received refunds of $6,235 for board travel from various organizations, the most significant of which are PAG and the Volunteer Lawyers Project.

- o As indicated on Schedule B (I), $3,239 has been paid for airline tickets and charged to board travel. We have not been able to determine the purpose of these trips from the board members files at NCC. Further explanation needs to be obtained.

Training Fundraising

Expenditures for fundraising activities have been charged to the LSC SHARE grant. Training expenses were incurred at three events held in Reno, Nevada on January 12 - 15, 1983, in Atlanta on January 19-22, 1983; and in Delavan, Wisconsin on February 22 - 25, 1983. We understand that LSC programs paid money to NCC to cover the cost of lodging and meals for the participants who attended the training events, and that NCC was only to pay the direct expenses for meeting room costs, supplies, coffee etc.

In addition, NCC entered into a contract for $6,000 with the Applied Research Center for the development of a training curricula for fundraising activities. We have not been able to determine whether this contract was approved by the Philadelphia Regional Office.

The expenditures incurred at the three events are indicated below:

Reno, Nevada

The list prepared by NCC indicated that NCC received $145 per participant from the various LSC programs, and that a total of $3,915 was received in 1982 and 1983 for this event. We understand that checks payable to Sands Hotel Casino for meal allowances of $100 were taken by NCC staff to Reno, and that Sands Hotel cashed the checks for the participants. The training event was held at the Sands Hotel Casino. The room rates were less than $20 per person. There were approximately 30 participants and four NCC staff (B. Veney, Myricks McGee, L. Marquez and Rose Candillo) in attendance.

Atlanta, Georgia

NCC received $8,284.58 during 1982 and 1983 from the various LSC programs at the rate of $190 each for 44 participants. Checks for $80 payable to the Atlanta American hotel were taken by NCC staff to Atlanta and cashed by the Atlanta American hotel for the participants. Four people on the participant list did not show up on the hotel bill, indicating that they did not stay at the Atlanta American hotel; however, their checks had been cash by the hotel. These participants are Ms. Peg Abernathy, Alabama, Ms. Bernice Dill, North Carolina, Ms. John McMillian, North Carolina and Ms. Marie T. Johnson. We need to ascertain if these four people attended the training event. K. Bledroe, M. Mcgee, I. Richardson and Mr. Veney were the NCC staff who attended the training.

Delavan, Wis

NCC received $4,390 at the rate of $175 each for the 25 participants. No checks payable to the hotel for the benefit of the participants were taken for this meeting. NCC was billed for the food provided to the participants. NCC staff who travelled to the meeting were Mr. Veney, Mr. McGee and I. Thearance.

NCC received $1,090 for fundraising training at Philadelphia February 9-12, 1983. We did not verify the expenses incurred at this training event.

Training Alternative Despute Resolution (ADR)

An ADR training event was held in Washington, D.C. during February 28 - March 4, 1983. All travel cost for the participants were paid by NCC and charged to the SHARE grant. The event was held at the Georgetown Hotel on P Street, N.W., and three staff members stationed in Washington, D.C. also stayed at the hotel. The $1,012.72 incurred for their stay (the employees), has been questioned on grounds of being unreasonable and unnecessary ($308.25 for Mr. McGee, $419.47 for Mr. Veney and $285.00 for Sallie Lucas). In addition, $6,000 was paid to the Center for Community Justice for development of a training curriculum for this event. We do not know if the Philadelphia regional office has approved this contract.

Salary

The objectives of our review were to determine the propriety, mathematical accuracy and adequacy of documentation of salaries to NCC staff paid for the nine month period ended September 30, 1983. To accomplish the above objectives, we traced salary payments recorded on all earnings cards to the amounts reported on the employer's quarterly tax returns (Form 941) filed with the IRS, and compared the total to the balance in the salary account recorded in the general ledger. A minor difference was noted and reconciled. The total salary paid for the three quarters as per the general ledger was $144,705.

The salary account balance was determined to be mathematically accurate, adequately documented and salary increases were authorized.

Salary Advances

Employees' salary advances were reviewed for proper authorization, adequate documentation, timeliness of repayments and adherence to policies stated in NCC's personnel manual.

Salary advances to employees were approved and authorized by the Executive Director. Advances to the Executive Director are supposed to be approved and authorized by the President of NCC, Nelwynne Hollie. In reviewing this account all salary advances received by employees for the nine month period ended September 30, 1983, were scheduled noting the amount of advance, date of advance, repayment agreement, and actual deductions from payroll checks. Sallie Lucas, the bookkeeper, told us that since the president of the organization lives outside the Washington, D.C. area (Minneapolis St. Paul), approval by telephone is first given for salary advances to the Executive Director, Bernard Veney. After the issuance of such advance, a partially filled approval form is forwarded to the president for her signature. The time and date of approvals are not documented.

NCC's policy on salary advances was also reviewed. We reviewed the supporting documents for each advance and the repayments recorded on the earnings cards and the salary advance subsidiary ledger. The balance of outstanding employee advances at September 30, 1983, was $8,306.33. The detail for this amount is reported in Schedule F.

NCC's policy on the amount of such advances states: "In no event shall the amount of such advance exceed the salary earned in one pay period". However, we noted that salary advances to some of the staff members exceeded the salaries earned in one pay period.

The program's policy on repayment of salary advances states that: "Advances will be repaid within a three month period. At the discretion of the Executive Director, an additional three month period for repayment may be granted. However, in every instance, repayment in full will be made within a six month period". The actual payroll deductions to repay some salary advances were lower than the amounts originally agreed upon when the advances were approved. There was no documentation on file to indicate that the Executive Director exercised his discretionary authority to extend the repayment period in these instances. Even if he did, the limitation on repayment period as set in the policy would have been violated.

On April 26, 1983, Bernard Veney, received a salary advance of $1,200.00, signing an agreement to repay the advance with a $200.00 deduction per pay period. Under this agreement, repayment would have been made in six pay periods or three months. However, the actual deduction from payroll check is only $100.00 per pay period. There was no documentation giving approval for such a change in the repayment agreement from the President who had authorized the advance in the first place. The salary advance balance for Mr. Bernard Veney at September 30, 1983 was $6,456.33. Despite the large outstanding salary advance balance on his account, regular payroll deductions were not being made from Mr. Veney's paychecks on a regular basis as per signed agreements.

Consultant Fee Paid to Bernie Veney

On September 1 and 13, 1983, Mr. Veney received two checks totaling five hundred dollars ($500.00) from NCC for consultant fees for serving as facilitator at the 17th Annual Smith Fellowship Program, National Orientation Program from August 21 to 25, 1983, in lieu of reimbursement from the Reggie Program. NCC was subsequently reimbursed by the Reggie Program on October 6, 1983 for the total fee paid to Mr. Veney.

NCC's policy on acceptance of consultant fees by its employees states: "Under no circumstances shall any employee accept compensation in any form for the rendering of consultant services, evaluation or any other services to a Legal Services Program or to any other program normally assisted by the Corporation. Acceptance of such compensation shall be grounds for suspension and termination under Part VI, Section D of this manual".

The acceptance of the $500.00 consultant fee by Mr. Veney seems to be in violation of NCC's policy noted above. Leave records indicate that Mr. Veney was on leave (compensatory) from August 22-25, 1983.

Fringe Benefits

Employees' fringe benefits expense for the nine month period ended September 30, 1983, is $34,253.35. Of this amount $9,408.70 was for the program's contribution to FICA. The remainder was for group life and health insurance. Group life insurance premium for each employee is $12.83 per month, while the Group Health insurance monthly premium is $199.18 per employee. Other policies paid for are workers compensation at $1,184.00 and general liability at $603.00 per annum.

We concluded from our review that fringe benefit payments are properly recorded and adequately documented.

Cash Disbursements

The signatures of any two of the following people are required on all checks: Bernard Veney, Executive Director, Nelwynne Hollie, President, Rosita Stanley, Treasurer and Brenda Fennell, Secretary. Of these four people, the President and Treasurer reside in Minnesota and

Georgia respectively. As a result of this, a signature stamp for Nelwynne Hollie is kept at NCC's head office. According to representation made by the bookkeeper, the Executive Director has custody of the signature stamp and only he authorizes the use of the stamp.

When the Executive Director is absent from the NCC office, Ms. Brenda Fennell signs all checks and Nelwynne Hollie's signature is stamped on the checks after authorization by telephone is given by Mr. Bernard Veney. When both Mr. Veney and Ms. Brenda Fennell are away from the Washington area, no disbursement by check can be made.

Cash disbursements made in the months of April and July 1983 were selected for a detail review. The following characteristics were listed and then tested; check numbers, dates, amounts, authorized signatures, endorsements, and expense classification. Based on the test of disbursements for the months of April and July 1983, we conclude that generally, payments made are properly recorded and classified in the cash disbursements journal. We also determined that adequate verification of invoices are made before payments are made. Questions and problems regarding inadequate documentation of expenses and the reasonableness and necessity of expenses are discussed in other sections of this report.

Reimbursement to Staff

Checks made out to the following staff members were reviewed and tested for adequate documentation and propriety of expenses: (1) Bernard Veney (2) Brenda Fennell, (3) Rose Caudillo, (4) Kathy Bledroe (5) Sallie Lucas.

Adequacy of supporting documents on payments to staff are commented on in Schedule C. All expenditures which are not adequately documented, will be noted as questioned costs.

Office Rent

A review was made of all leases on file, and payments for office space were verified. The total rent paid for the nine months ended September 30, 1983 is $40,445.03. The monthly rent for the Washington office prior to August 1, 1983 was $3,937.51. Effective August 1, 1983

NCC renegotiated with the new landlord for a reduced rent and the refund of the original security deposit with interest. An amount of $2,120.73 was received (Security Deposit $1,640.00, Accrued interest $480.73) on September 1, 1983. The amount of $1,640 was credited to the rent expense resulting in a balance of $38,815.03 in the rent account.

The Los Angeles office space is a donated space, therefore no rent is paid. Based on our review, rent paid seems reasonable and adequately documented.

Miscellaneous Disbursements

The account "other costs" was reviewed and analyzed. Our review indicated that a total amount of $604.25 has been paid to Palace Florist, Inc. Further inquiry revealed that it is a practice of NCC to send flowers or fruit baskets to friends of NCC on special occasions. The recipients include staff members and a board member.

The $604.25 is being listed as a questioned cost which will need to be resolved by LSC. The basis for questioning the expenditures is whether they were necessary or reasonable to carry out the functions of the program.

Consultant Fees

We reviewed consultant contracts entered into by NCC to determine whether the program was in compliance with the Audit Guide by receiving prior written approval from the Regional Director for contracts in which the consultant was paid in excess of $192.75 per day or $2,500 in total. As a result of our review, we have identified at least two contracts which violate the requirements of the Audit Guide. They are as follows:

- A contract with Josephine Worthy dated December 27, 1982, which stated that Ms. Worthy would be paid at a rate of $400 per day.

- A contract with Walker Thompson dated June 18, 1982, which stated that Mr. Thompson would be paid at a rate of $175 per day up to a maximum of 20 days (total value = $3,500).

Neither of these contracts was approved by Marttie Thompson, the director of our Philadelphia Regional Office (per our phone conversation). These costs will be noted as questioned and will need to be resolved. Marttie has not responded to our request for a listing of consultant contracts approved by the regional office from 1981 thru 1983.

Equipmental Rental

Equipmental rental charges of $35,510.64 have been incurred through September 30, 1983. Most of the rental charges are Xerox copiers. We do not know if the Philadelphia regional office has approved the contracts to rent the Xerox machines. If the regional office has not approved the contracts, then a significant portion of the $35,511 would be questioned costs under the criteria of the Audit Guide.

Conclusion

The Audit Division was not aware that significant problems existed in the accounting and financial reporting systems of NCC. A fundamental Criteria Review was conducted at NCC in 1980. At that time, numerous recommendations for improving their internal controls and financial reporting systems were made. During the past two years, we have been receiving feedback from NCC's auditors indicating that progress was being made to implement the recommendations, although weaknesses were still being noted. We have not received any information from the Regional Office that there were any significant problems at NCC.

Our report deals basically with the operations of NCC during 1983. We can not exclude the possibility that similar questioned costs did not exist in years prior to 1983. When NCC responds to the issues raised in this report, the total costs questioned in the first nine months of 1983 can be determined.

The Audit Division will suggest a future course of action for NCC regarding the questioned costs and the other problems noted in this report, after NCC's appeal on the denial of refunding notice has been decided.

If you have any questions or comments regarding this report please give the Audit Division a call at your convenience.

Sincerely,

Jotinder Singh

Jotinder Singh
Senior Auditor

JS:dm

cc: Dennis Daugherty, Vice President Operations
Charles Ritter, Vice President, Finance
Gregg Hartley, Director, Office of Field Services
Tom Opsut, Director, Office of Compliance and Review

The CHAIRMAN. At this point we will turn to the Senator who has done an awful lot of work in this area and has played a significant role in trying to get to the bottom of some of these matters, Senator Denton.

STATEMENT OF HON. JEREMIAH DENTON, A U.S. SENATOR FROM THE STATE OF ALABAMA

Senator DENTON. Thank you, Mr. Chairman. It's a pleasure to work with you on this issue.

I ask, Mr. Chairman, that the complete remarks in my prepared statement be included in the record as if read. I'm going to give a shorter version.

The CHAIRMAN. Without objection, we will put the full statement in the record.

Senator DENTON. I think it should be noted at the outset that the investigation by the GAO was not a comprehensive, across-the-board investigation. In our constraints, principally the time constraint, we agreed to a limited investigation which covered a certain aspect of the regional office at Denver. I believe it should be made clear that the relatively narrow focus and spectrum of comprehensiveness was necessary because of the limited period of time which the investigators had in order to get something in time for this particular hearing.

Mr. Chairman, I joined last year with you and other Senators on this committee to undertake what I believe was the first serious Senate inquiry into the activities of the federally funded Legal Services Corporation. Despite the fact that many citizens had complained about inappropriate uses of Legal Services Corporation funds by local grantees, including allegations about illegal political activity, a comprehensive review of these allegations was never conducted. They were apparently written off as isolated incidents.

The results of our own investigation were deeply disturbing. It became obvious that large sums of Federal tax dollars appropriated to provide legal services to indigent clients were diverted to fund illegal political activities designed to win the continuation of funding for the LSC, to prevent additional restrictions on the activities of Legal Services attorneys, and to advance the political agenda of those presently—or at the time—running the Legal Services Corporation. This was vividly displayed, these series of suggestions that I just made, were vividly displayed in the video tape of the training session of the Legal Services Corporation meeting in January 1981 that was played for the committee last July. On that video tape, an employee of the Corporation states as follows:

> What is at stake is not solely the survival of the Legal Services program. What is at stake is the survival of many social benefits—entitlement programs—that we struggled, since 1965, to make real for poor people. What is at stake is a number of other kinds of programs like affirmative action, civil rights programs. Those in the end are far more important than legal services. Legal Services is a tool to get them.

I have no personal comment to make about the validity or invalidity of such objectives; I have total disagreement with the right of a program to incorporate within its goals, and to expend within its efforts, activities which promote other than the principal objective which is supposed to be aid to the indigent regarding legal services.

Therefore I think that is a gross situation that was outlined in that statement.

Another speaker, from the Western Center on Law and Poverty, an LSC grant recipient, explained how his organization used $60,000 to finance the building of coalitions and networks to oppose a tax-cutting ballot initiative, proposition 9, in California. This gentleman went on to recommend that Legal Services Corporation grantees involve themselves in other political activities such as reapportionment.

Indeed, Mr. Chairman, materials reviewed by the committee show that political activity was widespread and deliberate. The evidence was so voluminous that we asked the General Accounting Office to conduct an independent inquiry into this matter, as you know, and I am pleased that they are here today to report to us on their findings. As you know, the GAO has already issued a legal opinion which declares that the activity shown on the video tape for which some of our colleagues on the other side of the aisle seemed disinterested at a previous hearing, the activities shown on that video tape violated several provisions of Federal law.

I stand ready to assist the chairman and other members of the committee in redirecting the Corporation back toward providing legal assistance to individual poor clients, and in that I believe we have a bipartisan consensus. I remain concerned that the political coalitions and networks created by Legal Services grantees in past years remain intact and that, in some cases, persons involved in this activity are still affiliated with Legal Services grantees.

I hope that we can make some progress in depoliticizing the Legal Services Corporation so that more indigent clients who need legal assistance can be helped.

Thank you, Mr. Chairman.

[The prepared statements of Senators Denton and Thurmond follow:]

STATEMENT BY THE HONORABLE JEREMIAH DENTON
APRIL 11, 1984
OVERSIGHT OF THE LEGAL SERVICES CORPORATION

MR. CHAIRMAN, I APPRECIATE THE OPPORTUNITY TO MAKE SOME BRIEF REMARKS ABOUT THE LEGAL SERVICES CORPORATION.

LAST YEAR I JOINED WITH YOU AND OTHER SENATORS ON THIS COMMITTEE TO UNDERTAKE WHAT I BELIEVE WAS THE SERIOUS SENATE INQUIRY INTO THE ACTIVITIES OF THE FEDERALLY-FUNDED LEGAL SERVICES CORPORATION. DESPITE THE FACT THAT MANY CITIZENS HAD COMPLAINED ABOUT INAPPROPRIATE USES OF LSC FUNDS BY LOCAL GRANTEES, INCLUDING ALLEGATIONS ABOUT ILLEGAL POLITICAL ACTIVITY, A COMPREHENSIVE REVIEW OF THESE ALLEGATIONS WAS NEVER CONDUCTED. THEY WERE APPARENTLY WRITTEN OFF AS ISOLATED INCIDENTS.

THE RESULTS OF OUR INVESTIGATION WERE DEEPLY DISTURBING. IT BECAME OBVIOUS THAT LARGE SUMS OF FEDERAL TAX DOLLARS APPROPRIATED TO PROVIDE LEGAL SERVICES TO INDIGENT CLIENTS WERE DIVERTED TO FUND ILLEGAL POLITICAL ACTIVITIES DESIGNED TO WIN THE CONTINUATION OF FUNDING FOR THE LSC, TO PREVENT ADDITIONAL RESTRICTIONS ON THE ACTIVITIES OF LEGAL SERVICES ATTORNEYS, AND TO ADVANCE THE POLITICAL AGENDA OF THOSE RUNNING THE LEGAL SERVICES CORPORATION. THIS WAS VIVIDLY DISPLAYED IN THE VIDEOTAPE OF THE TRAINING SESSION IN JANUARY, 1981, THAT WAS PLAYED FOR THE COMMITTEE LAST JULY. ON THAT VIDEOTAPE, AN EMPLOYEE OF THE CORPORATION STATES:

> "What is at stake is not solely the survival of the Legal Services program. What is at stake is the survival of many social benefits -- entitlement programs -- that we struggled, since 1965, to make real for poor people. What is at stake is a number of other kinds of programs like affirmative action, civil rights programs. Those in the end are far more important than legal services. Legal Services is a tool to get them."

Another speaker, from the Western Center on Law and Poverty, a LSC grant recipient, explained how his organization used $60,000 to finance the building of coalitions and networks to oppose a tax-cutting ballot initiative, Proposition 9, in California. This gentleman went on to recommend that LSC grantees involve themselves in other political activities such as reapportionment.

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Thank you, Mr. Chairman.

MEMORANDUM

LEGAL SERVICES OF NORTH-CENTRAL ALABAMA, INC.

TO: Larry
DATE: 4/29/81
FROM: Christy Lamb
SUBJECT: Survival Coalition

We continue to get letters of support + more resolutions - Sometimes I wonder if it does any good? We in Alabama are also forming a SURVIVAL COALITION of all agencies, organization + interested persons - We have a public hearing set up for May 9TH. All congressional members have been invited - OUR Lt. Governor, George McMillian sent a letter to Heflin + Denton supporting LSC.

Urban
Rural
Veterans
Indigent
Volunteers
Aged
Labor

2616 8th St.
Tuscaloosa, AL 35401
759-5401

To: Interested Individuals
From: Temporary Steering Committee
Date: April 27, 1981
Re: Offensive Stand On Reagan's Budget Cuts

The Reagan Administration's program for economic recovery is a triumph of right wing political philosophy and economic theory. It is concretely the politics of inhumanity and the economics of barbarism.

Reagan's plan is a declaration of war on fifty years of social legislation that, to use his words, "sprang from our national conscience."

His program aims like a dagger at 35.7 million people living in the shadow of poverty. Food Stamps, a lifeline for millions in poverty, cut 1.8 billion. Welfare, cut 520 million. Health System Agency, wiped out. Legal Services, wiped out. Health and Education, cut 23.9 billion. The education cuts threaten public school education, weakening an already deficient system. Regulations, called "wasteful" by Reagan, but which protect workers on the job from hazardous chemicals and unsafe conditions are being eliminated, along with environmental protection regulations. These cuts will be paid for with the lives of working people. Unemployment benefits, Veterans benefits, and CETA jobs programs are all being cut with CETA being eliminated entirely.

Reagan's "even handed" approach places the burden of the entire economic crisis on the backs of the poor, the minorities and middle income people, while his "special interest group", the rich and the military contractors, get tax breaks and a 200 billion dollar military budget.

The ultimate expression of the madness we face is this administration's belief that "nuclear war is a credible justified premise to prevent the Soviet Union from blocking U.S. attempts to achieve international civility." (Alexander Haig) George Bush declares, "we can win a nuclear war". Jerry Huckaby of Louisiana added to this wisdom when he said, "the Soviets can kill 90% of us and we can only kill 50% of them. Alabama's own senator Richard Shelby has said he totally supports this philosophy and the Reagan budget.

The right wing is united in organizing public opinion and lobbying for the entire Reagan program. We must also unite and organize a comprehensive counter offensive of "action to save it all".

We are not "selfish interest groups" fighting for narrow interests. Together we represent the interests of the great majority of people in this country. To fight separately is to guarantee defeat. Benjamin Franklin was right when he said, "If we don't all hang together, we will all hang seperately."

That is why we have formed the SURVIVAL Coalition. That is why we need you to join us in mounting the counter offensive in defense of our rights.

Together we have the resources, physical, mental and financial, to launch a massive campaign to educate, mobilize, organize and co-ordinate actions along a single line to "SAVE IT ALL".

The SURVIVAL coalition will be meeting on Monday, May 4, 10:00 A.M., at the YMCA in Birmingham at 1400 4th Ave. North. We need your organization represented on our steering committee in order to have the broadest possible coalition. Thus far, the groups with representatives in the SURVIVAL Coalition include the State Client's Council, Alabama Democratic Conference, State SCLC, Alabama Coalition Against Hunger, Alabama Equal Rights Congress, Birmingham Tenant's Organization, Bessemer NAACP, Committee for Quality-Integrated Education, and the Alabama Legal Services Coalition.

The urgency is in the moment, the time for action is now. Be at this vitally important meeting. This is not a mass meeting, please send one representative from your organization.

TOGETHER, WE CAN WIN!

Mailed to
some 300
organizations
Planning for
May 9th - Day
of Action -

STATEMENT BY SENATOR STROM THURMOND (R-S.C.) BEFORE THE SENATE LABOR AND HUMAN RESOURCES COMMITTEE REFERENCE HEARING OF FINANCIAL IRREGULARITIES, GRANTEE DEFUNDING AND PAST POLITICAL ACTIVITY OF THE LEGAL SERVICES CORPORATION. 430 DIRKSEN SENATE OFFICE BUILDING, WEDNESDAY, APRIL 11, 1984.

MR. CHAIRMAN:

I am pleased to be here today as the Labor and Human Resources Committee reviews some of the past activities of the Legal Services Corporation.

Mr. Chairman, I believe that in the past I have made no secret of my views concerning the Legal Services Corporation. In fact, in 1981, on the Senate floor I supported efforts to delete funding for this Corporation from the Federal budget. As I expressed at that time -- and I will not go into great detail at this time -- I support the goal of equal access to the courts for the poor. However, I also believe that the responsibility for providing basic legal services, if indeed it is a function of Government at all, is a responsibility which should be borne by the States, perhaps assisted by some Federal funds made available through block grants.

The Legal Services Corporation was orginally designed to give aid to those Americans too poor to afford legal help in such basic matters as settling disputes with their landlords or providing counseling and advice on domestic matters. Instead of achieving this design, LSC became a weapon used by social and judicial activists to battle the very Government that funds their activities.

Rather than attending to the legitimate basic legal needs of the poor and disadvantaged, the Corporation and its employees have too often misused taxpayers' dollars to promote their own ideals of social justice or change.

Mr. Chairman, it is partly for these reasons that I have opposed continued funding for LSC in the past. The General Accounting Office has issued a report and will testify today concerning LSC's past misuse of appropriated funds.

Mr. Chairman, I am pleased that Mr. Donald P. Bogard, President of LSC, has expressed his opposition to lobbying by LSC staff attorneys. However, before this Committee on May 4, 1983, Mr. Bogard stated that LSC staff attorneys are still lobbying. So, I am hopeful that we can review this situation today and take a look at ways to prevent future abuses in this program, should appropriations be granted.

The **Chairman**. Thank you, Senator Denton.

Our first witness today will be Mr. Frank Curtis, Associate Director at the General Accounting Office. We welcome you and your associates to the committee this morning. We're very pleased to have you appear. I understand that you have a short statement you'd like to read, Mr. Curtis, and then we would like to have time for questions.

STATEMENT OF FRANKLIN A. CURTIS, ASSOCIATE DIRECTOR, HUMAN RESOURCES DIVISION, U.S. GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY JOHNNIE E. LUPTON; GEORGE D. PECK; AND JOHN C. HANSEN

Mr. **Curtis**. Thank you, Mr. Chairman. We are pleased to be here today to discuss our review of 1980 and 1981 efforts by the Legal Services Corporation and the local programs it funds to ensure continued Federal funding of LSC and oppose additional restrictions on program activities.

In response to your and Senator Denton's July 18, 1983 request, and as agreed with your office in January 1984, we focused this phase of our review on determining whether LSC funded programs in Texas and other States within LSC's Denver Regional Office area performed survival-related activities which violated applicable laws, regulations, and policies.

In summary, we found that despite GAO's legal opinions and recommendations to revise its lobbying regulations, LSC continued to encourage local programs to expend Federal funds for grassroots lobbying activities prohibited by Federal law. LSC's top priority during late 1980 and 1981 was to build a local base of support to ensure continued Federal funding of legal services and oppose additional restrictions on LSC program activities. LSC-funded programs in Texas and other States within LSC's Denver Regional Office area engaged in lobbying activities which, while consistent with LSC's interpretation of the act and regulations existing at that time, were, in our opinion, prohibited by Federal law.

An August 1980 report, and November 1980 and May 1981 GAO legal opinions recommended that LSC revise its regulations to specifically define the legislative restrictions on lobbying activities and the types of activities that local programs may not engage in. LSC, however, continued to broadly interpret the exceptions to statutory lobbying restrictions until May 1981, and did not approve more specific lobbying regulations for LSC funded programs until 1983.

Although LSC's President said he disagreed with GAO's interpretation of the applicable legal provisions restricting lobbying activities, he told us in May 1981 that he had directed all LSC employees to stop all activities coming within GAO's definition of grassroots lobbying and would request that the Board of Directors consider necessary changes in relevant regulations applicable to fund recipients.

In March 1983, about 2½ years after we first recommended that LSC revise its lobbying regulations, LSC published revised antilobbying regulations for LSC funded programs.

Numerous LSC memoranda and discussions with former senior LSC staff indicate that during late 1980 and 1981 LSC's top priority was to build a local base of support to ensure continued Federal funding of legal services to the poor and oppose additional restrictions on LSC fund recipient activities. Former LSC senior staff told us that they believed it was legal for LSC fund recipients to engage in grassroots lobbying on LSC's reauthorization and appropriate legislation because these matters directly affected them.

LSC memoranda, many of which were included in this committee's July 12, 1983, hearing record, indicate that LSC developed a detailed plan designed to urge members of the public interested in LSC programs to contact Members of Congress and communicate their support for LSC reauthorization and appropriations measures being considered by Congress. These plans were implemented through regional project director meetings held nationwide during December 1980 and January 1981. According to LSC memoranda and former senior LSC officials, the objective of these meetings was to provide program directors the information and training necessary to build a local base of support and to emphasize the need to include State coordinators and others who have been part of the legislative and political information/action network into the survival effort; develop State and substate action plans, and ensure that local program directors released program resources to build the local base of support.

Further, a December 5, 1980, memorandum from LSC's Office of Field Services directed LSC regional directors to free up the resources and time necessary to assist in building the local base of support of every program to assure the survival of that program and of Legal Services.

Former senior LSC officials told us that they advised local programs on the strategies necessary to ensure LSC's continued funding, but did not require them to perform these activities. However, the Denver regional director told us he viewed these as general directives to be implemented by local programs, and references in LSC memoranda to survival-related activities as essential and the top priority, suggest that LSC senior staff intended local programs to implement the survival strategies.

At the January 1981 Denver regional office project directors' meeting in Boulder, CO, LSC funded programs in Texas and other States within the Denver regional area began developing State plans to implement LSC developed strategies to build local bases of support for LSC. Our review of these State plans and local program efforts to obtain support for continued funding of LSC indicates that some of these activities were, in our opinion, prohibited by Federal law.

LSC programs in Texas, Arizona, Colorado, and New Mexico performed a variety of survival related activities, including soliciting support from bar associations, judges, elected officials, and community organizations; persuading clients and local program staff to engage in letter writing and telephone campaigns to congressional offices, and soliciting favorable media coverage and editorial support.

Although LSC's Denver regional director acknowledged that LSC funded programs within LSC's Denver regional area engaged in grass roots lobbying activities in early 1981, he told us these activities stopped in May 1981 after he directed the local programs in his region to comply with GAO's May 1981 legal opinion on grassroots lobbying.

This concludes my summary, Mr. Chairman. We would be happy to answer any questions you or other members of the committee may have.

[The prepared statement of Mr. Curtis follows:]

UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

FOR RELEASE ON DELIVERY
Expected at 10:00 am EST
April 11, 1984

STATEMENT OF

FRANKLIN A. CURTIS

ASSOCIATE DIRECTOR

HUMAN RESOURCES DIVISION

BEFORE THE

SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES

ON THE

LEGAL SERVICES CORPORATION

Mr. Chairman and Members of the Committee, we are pleased to be here today to discuss our review of 1980 and 1981 efforts by the Legal Services Corporation (LSC) and the local programs it funds to insure continued federal funding of LSC and oppose additional restrictions on program activities.

In response to your and Senator Denton's July 18, 1983, request, GAO initiated a survey of LSC's efforts to insure its survival and other matters. In September 1983, we issued a legal opinion[1] which concluded that certain LSC documents and other materials you provided us indicated violations of statutory restrictions on LSC and local program activities. In January 1984, we agreed with your office to focus this phase of our review on determining whether LSC-funded programs in Texas and other states within LSC's Denver region performed survival-related activities which violated applicable laws, regulations, and policies.

PRIOR GAO LEGAL OPINIONS AND RECOMMENDATIONS ON LSC LOBBYING

An August 1980 GAO report[2] and November 1980 legal opinion[3] recommended that LSC revise its regulations to specifically define the legislative restrictions on lobbying activities and the types of activities that local programs may not engage in. LSC, however, continued to broadly interpret the exceptions to statutory lobbying restrictions until May 1981 and did not approve more specific lobbying regulations for LSC-funded programs until 1983.

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[1] B-210338/B-202116, September 19, 1983.

[2] Review of Legal Services Corporation's Activities Concerning Program Evaluation and Expansion (HRD-80-103, Aug. 28, 1980).

[3] Legal opinion to Representative Benjamin A. Gilman (B-163762, Nov. 24, 1980).

In our August 1980 report we noted that exceptions to the statutory prohibition of lobbying activities by LSC-funded programs gave the programs wide latitude to engage in these activities, which had raised congressional concerns about the propriety of such lobbying. We recommended that LSC (1) revise its regulations to more specifically define the legislative restrictions on local programs' lobbying activities and the types of activities that are not permissible and (2) implement procedures to insure compliance with the lobbying restrictions.

In our November 1980 legal opinion, we again addressed LSC's authority to expend appropriated funds for lobbying activities. We concluded that LSC's authorizing legislation and restrictions on the use of its appropriations prohibited LSC and its grantees from expending appropriated funds for publicity or propaganda purposes, such as "grass roots" letter writing and telephone campaigns, designed to induce the public to contact elected representatives for the purpose of influencing legislation pending in the Congress or in any state legislature. We pointed out that LSC's regulations did not clearly define which lobbying activities were prohibited and which were permitted. We again recommended that LSC revise its regulations to clarify its policy guidance on lobbying activities and fully explain the statutory restrictions on those activities. We also recommended that LSC include appropriate restrictions in grant instruments and contracts with providers of legal assistance to insure that LSC-funded recipients had actual knowledge of these restrictions on grass roots lobbying.

In a December 2, 1980, letter, LSC's president told us that its general counsel would raise the issues covered in our November 1980 legal opinion with the board of directors. Although LSC approved revised regulations in March 1981, they did not address the concerns which led to our recommendations.

In February 1981, a member of Congress asked GAO to review documents he had obtained from LSC relating to its survival campaign and determine whether any of the activities described in the documents violated statutory anti-lobbying restrictions. In a May 1981 legal opinion[4] we again concluded that LSC had erroneously construed its authorizing legislation so as to enable LSC and its fund recipients to expend appropriated funds to solicit the public to contact members of Congress concerning legislation affecting LSC or the recipients.

LSC's president responded to our May 1, 1981, opinion by stating that LSC disagreed with GAO's interpretation of the applicable legal provisions restricting lobbying activities. He said that LSC's view was that it and its recipients had authority to expend federal funds on grass roots lobbying campaigns concerning legislation that affected LSC or the recipients. However, the president told us he had directed all LSC employees to stop all activities coming within our definition of grass roots lobbying and would notify the board of directors of our opinion and request that the board consider changes in regulations applicable to fund recipients.

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[4] Legal opinion to Representative F. James Sensenbrenner, Jr. (B-202116, May 1, 1981).

Although we first recommended that LSC change its regulations restricting grass roots lobbying by fund recipients in August 1980, it was not until June 5, 1981, that LSC's president advised the board of our recommendation. In March 1983, about 2-1/2 years after we first recommended that LSC revise its lobbying regulations, LSC published revised anti-lobbying regulations for LSC-funded programs.

LSC INVOLVEMENT IN THE SURVIVAL EFFORT

Numerous LSC memoranda and discussions with former senior LSC staff[5] indicate that during late 1980 and 1981, LSC's top priority was to build a local base of support to insure continued federal funding of legal services to the poor and oppose additional restrictions on LSC fund recipient activities. While former senior LSC staff acknowledged playing a leadership role in LSC's survival effort, they told us they did not require local programs to implement the strategies they devised because of their belief in local decisionmaking on the use of LSC funds. Nonetheless, former LSC senior staff said that they believed it was legal for LSC fund recipients to engage in grass roots lobbying on LSC's reauthorization and appropriation legislation because these matters directly affected them.

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[5] Former senior LSC staff includes the president, the vice president for finance and management, the director and deputy director of the office of field services, the director of the research institute, and the director of the office of government relations.

According to former LSC senior staff, initial plans for the survival effort were developed at the November 1980 annual meeting of the National Legal Aid and Defender Association in San Juan, Puerto Rico. An agenda for a meeting in San Juan included discussions of (1) establishing a national strategy committee to set strategy and policy to insure LSC's continuation, (2) identifying conservative supporters of LSC who could influence congressmen and senators, (3) establishing a communications network between state coordinators and LSC headquarters, (4) building coalitions with groups supporting LSC, including labor unions, church groups, the League of Women Voters, and others, (5) encouraging editorial support from the media, (6) developing direct mail and letter writing campaigns, and (7) encouraging development of an independent committee of conservative political and religious constituencies who supported LSC.

Following the San Juan meeting, LSC memoranda, many of which were included in this Committee's July 12, 1983, hearing record, indicate that LSC developed a detailed plan designed to urge persons interested in LSC programs to contact members of Congress and communicate their support for LSC reauthorization and appropriations measures being considered by the Congress. These plans were implemented through regional project director meetings held nationwide during December 1980 and January 1981. According to LSC memoranda and former senior LSC officials, these meetings were intended to give program directors the information and training necessary to build a local base of support, which they believed was essential to insuring the survival of legal services. According to a December 4, 1980, memorandum from LSC's office of field services, the regional meetings were to emphasize the need to (1) include state coordinators and others who have been part of "the legislative and political information/action network" in the survival effort, (2) develop state and sub-state action plans, and (3) insure that local program directors released program resources to build the local base of support. Further, a December 5, 1980, memorandum from LSC's office of field services directed LSC regional directors to "free up the resources and time" necessary to help build the local base of support of every program to assure the survival of that program and of legal services.

According to LSC's former president, he kept the board of directors informed of the survival effort through periodic communications. Board members also attended the regional project director meetings. The former president indicated that a January 9, 1981, memo to the board from the director of LSC's research institute accurately describes LSC's survival effort. The memo explains the scope of the "potential threat" to legal services and the various coalition-building, networking, and grass roots lobbying efforts being undertaken by LSC and local program officials to insure not only the continuation of aggressive legal services, but the continuation of "aggressive impact advocacy to improve the lives and power of poor people."

Former senior LSC officials told us that they advised local programs on the strategies necessary to insure continued federal funding of legal services, but did not require them to perform these activities. However, the Denver regional director told us he viewed these as general directives to be implemented by local programs, and references in LSC memoranda to survival-related activities as essential and the top priority suggest that LSC senior staff intended local programs to implement these activities.

IMPLEMENTATION OF THE SURVIVAL EFFORT BY LSC'S DENVER REGIONAL OFFICE AND LOCAL PROGRAMS WITHIN ITS REGION

At the January 1981 Denver regional office project directors meeting in Boulder, Colorado, LSC-funded programs in Texas and other states within the Denver region began developing state plans to implement LSC-developed strategies to build local bases of support for LSC. Our review of these state plans and local program efforts to obtain support for continued funding of LSC indicates that some of these activities were in our opinion prohibited by federal law.

Even before this meeting, LSC's Denver regional director was encouraging project directors within his region to solicit support for LSC. In a November 19, 1980, memorandum, he urged project directors to

> "...take immediate steps to broaden our base of support among elected and appointed officials, urban coalitions, the judiciary, labor officials, the private bar (all levels), community action programs, the broadcast and private media, low income groups, and others."

At the Boulder meeting, project directors from each state began developing state plans for building local bases of support in their states through relations with the media, private bar, congressional delegations, clients, and community groups.

At the Texas state meeting, for example, Texas project directors agreed to organize local grass roots campaigns to persuade their respective members of Congress to support LSC's reauthorization.

LSC's Denver regional director told us he was responsible for monitoring local program survival activities and insuring that they were consistent with LSC survival strategies.

Our review of survival activities in Texas and other states within LSC's Denver region identified grass roots lobbying activities that violated federal law.

Texas

In March 1981, the Denver regional director and LSC headquarters approved the creation of a Texas reauthorization project to develop an extensive information network to keep local programs in Texas informed of legislative developments in Washington, D.C. The reauthorization project, which was funded by a $60,392 LSC grant, frequently asked local program staff to contact members of Congress to urge their support for LSC's reauthorization. While our review of documents related to this project and discussions with the project's director identified instances of lobbying activities which in our opinion violated federal law, the project was not engaged in an extensive grass roots lobbying effort.

The director of the reauthorization project told us that her interpretation of the LSC act and appropriation restrictions was that local program directors and staff could contact members of Congress to urge their support for LSC's reauthorization. However, they could not, unless on their own time, ask individuals not employed by LSC or local programs it funded to contact their congressmen.

We also identified instances of grass roots lobbying by other LSC-funded local programs in Texas to generate support for LSC's reauthorization. These activities included generating support from numerous bar associations, judges, elected officials, community organizations, and others.

In May 1981 the director of the reauthorization project established Texans for Equal Justice (TEJ), a privately funded bipartisan group of distinquished Texans, to lobby for LSC's preservation. This group included attorneys, judges, elected officials, bar association officials, religious leaders, labor leaders, and law school professors and deans.

According to the reauthorization project director, TEJ was established without LSC funds because it was going to be involved in activities prohibited by federal law. To avoid engaging in prohibited activities during working hours, she reduced her employment with an LSC-funded local program to half-time, and worked on TEJ matters out of her home on her own time. She told us she was not compensated for her TEJ activities.

Arizona

According to LSC's Denver regional director and the Arizona state plan, LSC funded programs in Arizona performed various survival-related activities, including

- --soliciting supportive resolutions from local bar associations,
- --soliciting favorable media coverage and editorial support,
- --persuading clients to engage in letter writing and telephone campaigns to congressional offices, and
- --soliciting support from and forming alliances with community organizations.

LSC's Denver regional director acknowledged that performing these activities likely would have taken considerable time.

Colorado

The state plan for LSC-funded local programs in Colorado detailed various survival-related activities, including

- --soliciting supportive letters from individuals and community groups,
- --establishing letter writing quotas for employees of one local program, and
- --obtaining favorable media coverage and editorial support.

A statement in a January 1981 newsletter from the Colorado Coalition of Legal Services Programs, the state support center, summarizes activities local legal services staff were encouraged to undertake:

> "...each local office and each individual staff, client and board member will be called on to become effective advocates. It is absolutely essential that each of us become involved, identify supporters, develop media contacts and respond to requests from the national and state programs."

New Mexico

LSC-funded programs in New Mexico organized a statewide committee for the survival of legal services which developed a list of specific tasks to insure LSC's survival. The tasks included

--getting clients to send weekly letters to members of Congress,

--providing clients with information to be used in letters to congressmen and cautioning that this information not be used for form letters,

--arranging for client groups to meet with members of Congress, and

--encouraging staff to write letters supporting LSC to local newspaper editors and obtaining favorable radio and television coverage.

According to a New Mexico program memorandum, the caseloads of certain local program attorneys were reduced by 10 or 15 cases to facilitate performing these activities.

Denver Regional Director's Interpretation of Permissible Activities

According to LSC's Denver regional director, grass roots lobbying activities, such as those described above, were permissible under the LSC act because the lobbying concerned legislation directly affecting LSC and the local programs it funded. Although he acknowledged that LSC-funded programs within LSC's Denver region engaged in grass roots lobbying activities in early 1981, he told us these activities stopped in May 1981 after he directed the local programs in his region to comply with GAO's May 1981 legal opinion.

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This concludes our statement Mr. Chairman. We would be happy to answer any questions you or other members of the Committee have at this time.

The CHAIRMAN. Well, thank you for your statement, Mr. Curtis. The conclusions made in your statement seem to mirror the observations that Senator Denton and I and others on the committee made last year, that the Legal Services Corporation was engaged in a nationwide effort to organize a grassroots lobbying campaign to protect its own budget and its agenda.

Now, our observations were much criticized at the time that we made them, but your testimony today seems to vindicate those observations and the previous work done by this committee, so we appreciate that.

Obviously, there's been much confusion over what constitutes illegal lobbying by the Corporation, its grantees, and contractors. In order that all of us here today can understand the legal standards that you were using in your investigation, would you please explain how GAO interpreted the various statutes governing the Corporation's involvement in lobbying or legislative advocacy?

Mr. CURTIS. The basic matter for consideration, Mr. Chairman, seems to be whether it was direct lobbying for the individuals involved, or whether it was grass roots lobbying. I have with me here, this morning, John Lupton of our Office of General Counsel to answer questions such as this and other legal questions you may wish to ask.

The CHAIRMAN. Go ahead, Mr. Lupton.

Mr. LUPTON. Yes, sir. Mr. Chairman, first, there is a general restriction against lobbying that has been in effect since 1952 which is a part of the Treasury, Postal Service, and General Government Appropriations Act. It is applicable not only to the appropriations in that act, but to the appropriations in all other appropriations acts as well. It restricts the use of appropriated funds for grass roots lobbying; that is, lobbying whereby Government officials or officials of Government corporations exhort members of the public or other people outside of their organizations to contact Members of Congress to influence legislation that is pending before the Congress. That is a general restriction on the appropriations of all Government agencies, including the Legal Services Corporation prohibiting grassroots lobbying.

Direct lobbying is lobbying by an official of a Government agency directly with the Congress. The Legal Services Corporation has some limited authority to engage in direct lobbying of the Congress. There are two provisions within the Legal Services Corporation Act, one of which affects employees of the Corporation, and the other which affects employees of recipients. In the case of the Corporation, there is a narrow exception that permits it to engage in direct lobbying when it is requested to do so by some governmental body, such as this committee. The other exception allows it to engage in direct lobbying when a matter affecting the Corporation is before the Congress. In such a case representatives of the Corporation may appear before the Congress and explain the Corporation's position on such legislation.

Those are the only two exceptions that are applicable to the Corporation.

In regard to recipients, there are three exceptions. Recipients have the same two exceptions that the Corporation has, to engage in direct lobbying, and they also have an exception that allows them to engage in direct lobbying on behalf of a client who has a particular need for some legislative remedy.

These are the restrictions on the Corporation's use of its appropriated funds for lobbying.

The CHAIRMAN. Let me make sure that I understand your explanation of what was or was not illegal in 1981. Under your definition, as I understand it, in 1981, could the Corporation instruct members of its staff or even its entire staff, if it chose to do so, to lobby Congressmen and Senators to continue funding of the Corporation or to oppose additional restrictions being placed on Corporation activities?

Mr. LUPTON. Yes; the Corporation and its recipients, under this exception that I mentioned, could, in fact, engage in survival lobbying; that is, lobbying for legislation that directly affects the Corporation.

Mr. CHAIRMAN. So the answer is yes on that question. Was the same standard applied to grantees?

Mr. LUPTON. Yes, sir.

The CHAIRMAN. OK. Could the Corporation establish and fund an organization to lobby Congress about issues other than the Corporation's survival?

Mr. LUPTON. No; the Corporation could not legally use its appropriated funds to support a grassroots lobbying campaign to influence legislation pending before Congress, whether it did this directly or through another organization.

The CHAIRMAN. So it could not fund an organization to do that?

Mr. LUPTON. That is correct.

The CHAIRMAN. Was the Corporation permitted to finance an organization designed to campaign against a State ballot measure as it did in California with the campaign to defeat proposition 9?

Mr. **Lupton**. It had no authority to engage in such activities. This activity is expressly prohibited by the Legal Services Corporation Act of 1974.

The **Chairman**. So it was illegal to do that?

Mr. **Lupton**. That is correct.

The **Chairman**. Was the Corporation permitted to direct or encourage local programs to lobby Congress for continued funding for the Corporation, or to oppose any restrictions from being placed on Corporation activities as it apparently did in the Denver regional meeting in January of 1981?

Mr. **Lupton**. It is our view that the Corporation may not encourage, or direct its recipients to engage in that kind of lobbying because that is grassroots lobbying.

The **Chairman**. So that would be prohibited lobbying?

Mr. **Lupton**. Yes, sir.

The **Chairman**. We are talking about what went on in the Denver meeting in 1981?

Mr. **Lupton**. Yes, sir.

The **Chairman**. OK. Could local programs ask eligible clients and members of the community to write letters to Members of Congress or coordinate or even arrange client visits to Members of Congress as they did in Texas, Kentucky, Florida, and elsewhere?

Mr. **Lupton**. No, this would be prohibited because it is grassroots lobbying; and of course, our investigation only covered Texas——

The **Chairman**. But if that happened in those other states, that would also be prohibited?

Mr. **Lupton**. It would be.

The **Chairman**. OK. Was the Corporation or its grantees permitted to use their resources to facilitate the operation of grassroots lobbying campaigns to pressure Congress to continue funding of the Corporation or to oppose additional restrictions from being placed on Corporation activities through such methods as appointing staff members as State or national coordinators, distributing memorandums, notifying recipients of upcoming political events, and demonstrations or providing hotlines, mailing lists, or other such means of communication? Were they permitted to do that?

Mr. **Lupton**. No; the Corporation has an obligation to ensure that appropriated funds are not utilized for grassroots lobbying campaigns to influence legislation.

The **Chairman**. I see.

In your prepared statement, Mr. Curtis, you state that last year you issued a legal opinion in the fall and based upon materials submitted to you by the committee, that this year you have investigated activities in the Denver regional area. But as I understand, GAO's investigation of the Corporation, has not been as restrictive as your summary implies; is that correct?

Mr. **Curtis**. That's correct, Mr. Chairman. We also included, at your request and Senator Denton's, as Senator Denton referred to earlier, mirror corporations, transfers of property, fund balances, RIF's, and some other matters. We restricted our work to comply with the timeframe for these hearings, and we are testifying primarily today on the survival activities.

The **Chairman**. I understand you did receive hundreds of documents at LSC headquarters; you interviewed most of the former senior staff, and even some of the current staff members. Is that correct?

Mr. CURTIS. That's correct.

The CHAIRMAN. When you conclude in your prepared statement that during 1981—or 1980 and 1981, LSC's top priority was to build a local base of support to ensure continued Federal funding and to oppose additional restrictions on LSC activities, were your observations based on the massive volume of information, documentation, and interviews that you undertook?

Mr. CURTIS. They were, Mr. Chairman.

The CHAIRMAN. Would you then agree with the observations made by Senator Denton and myself that in 1981, officials at the Corporation used Federal funds to organize a grassroots lobbying campaign to protect the Corporation's budget and, of course, to attempt to oppose additional restrictions being placed on the Corporation's activities?

Mr. CURTIS. Yes; from the evidence we saw and the discussions we had, it was certainly their top priority. LSC used Federal funds to develop the strategies and plans for the survival effort.

The CHAIRMAN. In your testimony you address a second issue of importance, that is, the Corporation's agreement to abide by your interpretation of congressional prohibitions against lobbying. In a letter dated May 11, 1981, former Corporation President Dan Bradley advised GAO that the Corporation disagreed with your opinion letter dated May 1, 1981, concerning the Corporation's involvement in prohibited lobbying.

He went on to state, however, that the Corporation was taking, quote, "immediate steps to comply with the recommendations made by GAO," unquote. What did you folks at GAO actually interpret that statement to mean?

Mr. CURTIS. Basically, we interpreted it to mean what he said in his letter to us that, No. 1, he had advised or would advise employees of the Corporation not to engage in activities that fell within our legal opinion; also, that he would bring the matter of whether the regulations should be changed regarding recipients of LSC funds to the Board of Directors' attention.

The CHAIRMAN. OK. We will insert into the record at this point these documents, as Curtis documents Nos. 1 and 2.

[Curtis documents Nos. 1 and 2 follow:]

WASHINGTON D.C. 20548

B-202116

May 1, 1981

Curtis Doc. #1

The Honorable F. James Sensenbrenner, Jr.
House of Representatives

Dear Mr. Sensenbrenner:

This is in response to your request that this Office investigate the possible misuse of appropriated funds by the Legal Services Corporation (LSC) for lobbying and political activities. In support of your allegations, you provided us with copies of a number of LSC memoranda covering the period from March 1980 until March 1981. After reviewing this material we have concluded that LSC has itself engaged and allowed its grant recipients to engage in lobbying activities prohibited by Federal law. However, we did not find that LSC had engaged in prohibited political activities.

The LSC memoranda indicate that LSC developed a detailed plan designed to urge members of the public interested in its legal assistance programs to contact Members of Congress and communicate their support for LSC reauthorization legislation and LSC appropriations measures being considered by the Congress. Over the years, LSC has encouraged groups interested in legal assistance at the local, regional, and state levels to support its legislative program. The organizations include such groups as LSC fund recipients; clients' councils; the National Legal Aid and Defense Association (NLADA), an organization of poverty lawyers; the National Organization of Legal Services Workers, an employee organization of legal assistance workers; migrant farm worker groups; bar associations; and similar groups. The effectiveness of the organization depends heavily on a State Coordinator to serve as link between LSC headquarters and the State organization. Normally, the State Coordinator is an employee or official of a recipient organization, as opposed to being an employee of the LSC itself. Officials of LSC's Office of Government Relations communicate frequently with State Coordinators and develop strategy about how local members of the State's Congressional delegation can best be approached, how the local support base can be increased, and how certain methods have proven successful in other states. In addition to serving as a communications link and coordinating the activities of local groups, State Coordinators are also responsible for reporting information back to LSC headquarters.

Early in 1980, LSC formed a coalition with the Project Advisory Group (PAG), a national organization of legal services programs, to direct a lobbying campaign in support of LSC reauthorization and appropriation legislation being considered by the Congress. In April 1980, Dan J. Bradley, President, LSC, and Charles H. Dorsey, Chairperson, PAG, sent a joint letter to Legal Services Project Directors, the heads of recipient organizations, initiating the lobbying efforts as follows:

"The Legal Services Corporation and the Project Advisory Group are engaged in a joint effort to protect the interests of legal services programs and clients in current Congressional consideration of the Legal Services Corporation Act and appropriations for fiscal year 1981. We are sending this letter to bring you up to date on this pending legislation and to inform you particularly of the serious efforts in Congress to impose further restrictions on legal services work and to limit our appropriation.

"On the issue of funding, a major threat is posed by the general budget-cutting pressures on Congress and the Administration. Even strong supporters of legal services have agreed to a balanced budget in 1981. This means that both the House and Senate Budget Committees are looking more critically at funding for legal services than ever before, and could restrict the Appropriations Committees' ability to adequately fund the program for next year. You will recall that the Corporation requested $353 million for 1981. PAG is urging $403 million. The White House is supporting $321 million. Some members of the House Budget Committee proposed termination of legal services. That was not seriously debated, but a subsequent effort to reduce funds to $278 million lost narrowly by a vote of 11 to 14.

"At the time of this writing, resolutions from both the House and Senate Budget Committees would permit appropriations of as much as $321 million. It is certain, however, that further efforts to cut the budget will be made on the floor of both the House and the Senate. Such proposed cuts could be specific to legal services or could be across-the-board reductions for all spending. The budget resolutions will be debated on the floor in late April or early May.

"The House and Senate Appropriations Committees will set the actual 1981 appropriations figure for legal services once Congress has adopted the budget resolution setting the outer limits. Markup on appropriations bills will probably occur in mid to late May.

> "The House Judiciary Committee and the Senate Labor and Human Resources Committee are considering bills to extend the Legal Services Corporation Act. The leaders of both Committees want a simple extension of the law, with no amendments — a position supported by both the Corporation and PAG. The House Bill, H.R. 6386, is a three-year authorization. The Senate bill, S. 2337, is a two-year bill. Both have been reported from the appropriate subcommittee and will be considered by the respective full committees hopefully before the end of April.
>
> "We have clear indications that a number of crippling amendments will be proposed — either in full Committee or on the floor of the House and Senate. Among those now being discussed are further restrictions on legislative representation, representation in certain abortion cases, representation of aliens, and recovery of attorneys' fees. None of these are easy issues. All of them are important to effective legal services work. We must not underestimate the risk that such amendments present this year.
>
> "Both the Corporation and PAG have added temporary personnel in Washington to better assure that the interests of legal services programs and clients are heard as these issues are debated in the coming weeks and months. * * *"

On April 3, 1980, LSC sent out a packet of materials addressed to: "Persons Coordinating Congressional Relations" that included instructions on effective lobbying of members of Congress at the local level for LSC legislation. The materials provided were as follows:

> "1. A statement of 'what needs to be done' and 'what to send us.'
>
> "2. A Legislative update of April 3, 1980, from Anh Tu.
>
> "3. Fact sheets and background information on the LSC reauthorization and appropriation, including membership lists of the appropriate House and Senate Committees.
>
> "4. One page fact sheet/handouts on possible restrictive amendments.

"5. Examples of supportive Bar letters and resolutions.

"6.. Examples of favorable editorials.

"7. Examples of supportive letters from public officials.

"8. A list of state coordinators for the legislative effort. (State coordinators will also receive materials excerpted from the Congressional Staff Directory, indicating the Washington and local office addresses and phone numbers, and the key staff of each member of their state's Congressional delegation.)

"NOTE: PLEASE be in touch with your state coordinator before initiating Congressional contacts, editorials, or support from other suggested sources so that efforts can be coordinated among the various legal service supporters in your state."

The "what needs to be done" brochure gives specific and detailed guidance to local lobbyists. The brochure reads as follows:

"1. Visiting Members of Congress. During the Congressional recess, April 4 - 14, many members of Congress will be in their districts and can be approached by constituents supportive of legal services. For example, visits on behalf of legal services might be made by delegations of bar and law school leaders, public officials prominent figures in the party of the member, heads of major contributing organizations (e.g. labor unions), heads of broad-based constituent organizations (e.g. council of churches, League of Women Voters, Common Cause) and individual campaign contributors.

"NOTE: It is important to consider which of the above will be more influential with respect to a given member of Congress. Many members will want to hear from legal services staff themselves, but in most cases, it is better to rely on your supporters in the bar and other constituent groups to make Congressional contacts. (INSTRUCTIONS attached)

"2. Securing Local and State Bar Support. Supportive resolutions of local and state bar association and contacts by bar leaders with members of Congress are effective means of indicating concern to Congress.

"3. Obtaining Supportive Editorials. Seek editorial support in local papers.

"4. Alerting Constituents. Many Congressional constituents will be concerned about legal services if they are alerted to the problems we face. These include: local and state labor organizations; businesses and business organizations; church groups including local council of churches or statewide conferences, such as the statewide Catholic conference which exists in most states; broad-based constituent organizations (such as the League of Women Voters, Common Cause); civil rights organizations; anti-hunger coalitions; social service organizations (most states have some organization involved in the delivery of human resources); and individual campaign contributors.

"Also, client and poor people's organizations, such as the National Clients Council chapters, block-clubs, community economic development corporations, should be informed.

"5. Alerting Public Officials. State legislators, governors local legislators, and prominent individuals in the political party of the Representative or Senator may be concerned about legal services if they are alerted to the problems our clients will face if LSC's budget is cut or our services are restricted.

"6. Informing Us of Problems. Finally, it is important to determine if members of Congress or their staff have heard allegations of wrongdoing by a legal services program, and promptly provide a memorandum of fact to us along with as much supporting evidence as possible."

LSC also instructed local lobbyists in the "what to send us" brochure that they were responsible for providing LSC with after-action reports of their lobbying efforts. The data desired were as follows:

"Please provide State Coordinators and the LSC Office of Government Relations with all actual products of your efforts, including editorials, communications by individuals and organizations, and other information.

"Specifically, with regard to all House and Senate contacts please provide us with a report of:

"(1) the member of Congress (and staff) contacted,

"(2) persons (and their positions) making the contacts,

"(3) the Member's (and staff's) attitude toward

"(a) Legal services in general, and

"(b) any specific provisions of the legislation or amendments discussed, and

"(4) materials or information we should deliver to the member's Washington office."

The packet contained instructions on the preparation which supporters of LSC legislation should make before visiting their Congressmen or Senators. Lobbyists were advised to familiarize themselves with the background of the Member and select highly respected persons from the district to accompany the visiting delegation. The delegation was to familiarize itself with LSC reauthorization and appropriation issues and emphasize the significance of these issues to the Member.

The packet also included background information on the LSC reauthorization and appropriation issues. This material urged support for H.R. 6386 without amendment in the House and S. 2337 as reported out of the Senate Subcommittee on Employment, Poverty and Migratory Labor. The background information also urged opposition to any amendment that would (1) restrict legislative representation, (2) restrict the ability of legal services programs to represent aliens, (3) restrict the right of a legal services program to receive court-awarded fees upon successful completion of litigation, (4) limit the right of employees of legal services programs to join labor unions, (5) limit legal services representation in abortion proceedings, or (6) require legal services attorneys to negotiate prior to the initiation of litigation.

The packet included several examples of support for LSC reauthorization and appropriations in the form of editorials, local and State bar association letters, and letters from public officials. It was pointed out that such items had been helpful in demonstrating to Members of Congress the support for LSC in the local area.

Similar packets were sent out from the LSC Office of Government Relations and PAG to State Coordinators about once each month. These subsequent packets contained specific guidance, depending on the then-current status of LSC legislation, as to the lobbying efforts that were needed at the local level.

There is little question that the communications set forth in detail above constitute "lobbying", as the term is used in the applicable restrictive legislation and construed in our decisions. "Lobbying" activities are prohibited by provisions of the Legal Services Corporation Act of 1974, as amended (42 U.S.C, § 2996 et seq.) and restrictions contained in various appropriation Acts applicable to Federal funds expended by the Corporation. (See later discussions of these statutes.)

Under the provisions of 42 U.S.C. § 2996e(c), the Corporation itself, as distinguished from recipients of funding through the Corporation, is prohibited from attempting to influence the passage or defeat of any legislation before the Congress, except that Corporation personnel

> "* * * may testify or make other appropriate communication (A) when formally requested to do so by a legislative body, a committee, or a member thereof or (B) in connection with legislation or appropriations directly affecting the activities of the Corporation." (Emphasis added.)

In construing the exception, we think the phrase "* * * testify or make other appropriate communication * * *" is significant. Clearly, Congress did not intend the statutory prohibition against lobbying to preclude Corporation personnel from testifying before that body nor do we think that the Congress meant to preclude the Corporation from providing to the Congress the kind of data that Executive agencies and Departments normally supply when requested to do so or when they desire to express their views on legislative proposals. In construing other statutory restrictions against lobbying by officials of Executive agencies and departments (for example, § 607 (a) of the Treasury, Postal Service, and General Government Appropriation Act, discussed infra), we have consistently recognized that these officials have a legitimate interest in communicating with the public and with legislators regarding their policies and activities. When their policies or activities are affected by pending or proposed legislation, discussion by officials of that policy or activity will necessarily, either explicitly or by implication, refer to such legislation and will presumably be either in support of or in opposition to it. Accordingly, we have always construed other anti-lobbying restrictions as permitting officials to express their views on pending or proposed legislation as it affects their policies and activities directly to Congress or to the public. 56 Comp. Gen. 889 (1977); B-128938 July 12, 1976.

On the other hand, we have construed these other statutory anti-lobbying restrictions as prohibiting agency and department officials from engaging in "grass roots" lobbying, involving appeals addressed to the public at large or to selected individuals suggesting that they contact their elected representatives and indicate their support of or opposition to legislation being considered by the Congress. 59 Comp. Gen. 115 (1979). In other words, direct communication of its views by Corporation personnel to Members or Committees of the Congress is permissible; drumming up support for the same purpose outside the Corporation is not.

Accordingly, we do not think that the efforts by Corporation officials or employees to appeal to members of the public or the legal assistance community to contact their elected representatives in the Congress on behalf of legislative positions of the Corporation constitute "other appropriate communication."

LSC has broadly construed the exception in 42 U.S.C. § 2996e(c)(2), which reads "* * * except that personnel of the Corporation may testify or make other appropriate communication * * * in connection with legislation or appropriations directly affecting the activities of the Corporation", contending that this exception authorizes Corporation personnel to engage in all activities necessary to influence legislation and appropriation measures that directly affect the Corporation, including grass roots lobbying activities. We are unaware of any support for such a broad construction in the legislative history of this provision or elsewhere.

Indeed, the Conference Report to accompany H.R. 7824, the Legal Services Corporation Act of 1974 (S. Rep. No. 93-845, 92d Cong., 2d Sess. 22), supports our construction of the exception. The report states:

> "Both the House bill and the Senate amendment prohibit the Corporation from undertaking to influence the passage or defeat of any legislation by the Congress or by any State or local legislative body. The Senate amendment allowed the Corporation to testify and make appropriate comment in connection with legislation or appropriations directly affecting the activity of the Corporation. The House bill contained no comparable provision. The House recedes." (Emphasis added.)

As can be seen from the Conference Report, the exception was understood to allow only testimony and appropriate comment on legislation affecting the Corporation, which is consistent with our construction.

With regard to the use of funds by recipients of LSC assistance, under the provisions of 42 U.S.C. § 2996f(a)(5), the Corporation is charged with the responsibility of insuring that recipients do not use appropriated funds to influence the passage or defeat of legislation pending before the Congress except when representing a client or when:

> "(B) a governmental agency, legislative body, a committee, or a member thereof
>
> "(i) requests personnel of the recipient to testify, draft, or review measures or to make representations to such agency, body, committee, or member, or
>
> "(ii) is considering a measure directly affecting the activities under this title of the recipient or the Corporation."

The exception in 42 U.S.C. § 2996f(a)(5)(B)(ii), quoted above, should be given the same construction as the similar provision applicable to LSC personnel in 42 U.S.C. § 2996e(c)(2)(B), discussed above. That is, it should be construed so as to preclude expenditures of appropriated funds by recipients for grass roots lobbying. Here again, the Corporation has erroneously construed this exception broadly to permit recipients to expend appropriated funds to solicit others to contact their congressmen in connection with legislation affecting the recipient or the Corporation. For the reasons outlined above, we believe the Corporation's construction is improper. LSC has, however, promulgated regulations in 45 CFR § 1612.4 that implement its erroneous interpretation of this statutory provision as follows:

> "(a) No funds made available to a recipient by the Corporation shall be used, directly or indirectly, to support activities intended to influence the issuance, amendment, or revocation of any executive or administrative order or regulation of a Federal, State or local agency, or to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative body or State proposals by initiative petition."

* * * * *

> "(3) An employee may engage in such activities if a government agency, legislative body, committee, or member thereof is considering a measure directly affecting the activities under the Act of the recipient or the Corporation."

As currently worded, these regulations authorize LSC fund recipients to expend appropriated funds for grass roots lobbying campaigns in support of legislation or appropriation measures that directly affect the activities of the recipient or the Corporation. In our opinion, to Representative Gilman, B-163762, November 24, 1980, (copy enclosed), we noted certain deficiencies in these regulations and wrote to the President of the Corporation recommending that he take appropriate action to amend the regulations to implement adequately the statutory restrictions on lobbying. The Corporation has not, however, acted on our recommendations.

In addition to the limitations on lobbying activities in the above cited statutory provisions, annual appropriation act restrictions have, throughout the existence of the legal assistance program, also curtailed such activities. Section 607(a) of the Treasury, Postal Service, and General Government Appropriation Act, the language of which has been included in the Act every year since 1972, provides as follows:

> "No part of any appropriation contained in this or any other Act, or of the funds available for expenditure by any corporation or agency, shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress." (Emphasis added)

We have construed section 607(a) as prohibiting the expenditure of Federal funds by Executive agencies and Government corporations for activities involving appeals addressed to members of the public suggesting that they contact Members of Congress and indicate support of or opposition to legislation pending before Congress, or that they urge their congressional representatives to vote in a particular manner. 56 Comp. Gen. 889, supra.

We understand from discussions with the LSC General Counsel that LSC does not consider the restriction against lobbying activities contained in § 607(a) to be applicable to its appropriations because, when § 607(a) was first enacted in 1972, the Legal Services Corporation Act of 1974 (42 U.S.C. § 2996 et seq.) had not been enacted into law. The fallacy in LSC's argument is that appropriation Acts are enacted annually and restrictions in them apply to the use of funds for the fiscal year for which the appropriation was made. An appropriation restriction may forbid the use of funds by an agency even for some activity authorized in its organic legislation. In such a case, the restriction takes precedence over the organic legislation; that is, the agency would have substantive authority to carry on a certain activity but would have no funds available to spend on it. Section 607(a) has been enacted in the same form each year since 1972 and is, by its terms, applicable to appropriations contained in all appropriation acts. The § 607(a) restriction against the use of Federal funds for lobbying has thus been applicable to each annual appropriation the LSC has received.

Apparently LSC's interpretation that § 607(a) was not applicable to its appropriations and aggressive legislative representation by program personnel at the State level led the Congress to enact a provision similar to § 607(a), but expanded to cover State legislatures as well as the Congress, as a proviso to fiscal year 1979 appropriations provided for LSC in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1979 (Pub. L. 95-431, October 10, 1978, 92 Stat. 1021). This proviso, known as the Moorhead Amendment, reads as follows:

> "* * * Provided, No part of this appropriation shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress or any State legislature."

The Moorhead amendment has been applicable to the Corporation's appropriations each year since it was first introduced and enacted in 1978. Under this restriction, appropriated funds may not be used by recipients to appeal to members of the public to urge their elected representatives to support or defeat legislation pending in the Congress or in any State legislature. LSC has also failed to implement this restriction.

In summary, through the use of recipient organizations and their contacts at the State and local level, LSC has developed an extensive lobbying campaign to support reauthorization legislation for the corporation and related appropriation measures being considered by the Congress. This activity violates the anti-lobbying statutory and appropriation restrictions described above.

Because LSC's regulations and current policies appear to authorize recipients to expend appropriated funds for prohibited lobbying activities in derogation of the above-cited restrictions, we do not think, as a practical matter, that the Government would be successful in attempting to recover the illegally expended sums from the recipients. Also, because we are not authorized to settle the accounts of the Corporation, we are unable to take exception to these illegal payments. We have however, written the President of the Corporation informing him that we are advising both the Senate and House Appropriations and Judiciary Committees that the Corporation is expending Federal funds in violation of the above cited statutory and appropriations restrictions. In that same letter, we reiterate the recommendations in our opinion, B-163762, November 24, 1980.

We also reviewed the memoranda that you gave us for possible violations of restrictions on political activities contained in 42 U.S.C. § 2996e(e) and 42 U.S.C. § 2996f(a) by employees of either the Corporation or recipients. These restrictions are primarily designed to prohibit the Corporation or its recipients from assisting a political party or a candidate for public office. Our review did not uncover any evidence of such violations.

We trust this opinion is responsive to your request. If we can be of further assistance, please call on us.

Sincerely yours,

Milton J. Socolar

Acting Comptroller General
of the United States

Enclosure

Curtis Doc. #2

LEGAL SERVICES CORPORATION
733 Fifteenth Street, N.W., Washington, D.C. 20005

Dan J. Bradley
President

Writer's Direct Telephone
(202) 272-4040

May 11, 1981

Milton J. Socolar
Acting Comptroller General
of the United States
Washington, D.C. 20548

Dear Mr. Socolar:

Thank you for your letter of May 1, 1981 and your opinion concerning the legislative activities of the Legal Services Corporation and its recipients.

Your opinion indicates that the Legal Services Corporation and its recipients have engaged in prohibited grass roots lobbying activities. You concluded that these activities were carried out pursuant to Corporation regulations and legal opinions that erroneously interpreted the Legal Services Corporation Act and its relationship to riders that have been attached to various appropriation bills. You have further requested that I take immediate action to halt such grass roots legislative activities.

Your opinion reflects a significant difference between the General Accounting Office (GAO) and the Legal Services Corporation in the interpretation of the applicability of various federal lobbying provisions. As you know, these issues have been the subject of intense Congressional review on several occasions. The differences, I believe, reflect the difficulty of meshing riders attached to appropriation bills, dealing with substantive issues that must be framed in the context of the expenditure of funds, with actual authorization legislation. Congress is currently reviewing this matter and attempting to resolve the imprecision and confusion that may have resulted from addressing this issue through multiple legislative approaches.

LEGAL SERVICES CORPORATION

However, it is not accurate to suggest that the Corporation's statutory constructions are without merit or lacking any reasonable basis in law. I believe it is important to set out our differences.

The major difference between GAO and the Legal Services Corporation on this issue is the intermeshing of the Treasury, Postal Service Appropriations rider, the Moorhead rider and the Legal Services Corporation Act. The Legal Services Corporation concluded that the three must be read together in order to be meaningful and consistent. Contrary to GAO's statement on page 11, it is not the view of the Legal Services Corporation that the Treasury, Postal Service rider is inapplicable to LSC appropriations on the basis that it was originally adopted prior to the establishment of the Corporation. Rather it is our view that the Treasury, Postal Service rider, the Moorhead rider and the LSC Act must be viewed as an integral whole to fully determine Congressional intent with regard to this subject. It is a well established rule of statutory construction that two legislative provisions which appear to conflict should be construed, if possible, in a manner which renders them capable of co-existence.

As noted by GAO, the Treasury, Postal Service rider has been in effect since 1972. The LSC Act was passed in 1974, and its lobbying provisions were carefully drafted after an in-depth consideration of the issue. One must assume that both the general prohibition on lobbying in the Act, and the specific exceptions thereto were adopted by the Congress with full awareness not only of the Treasury rider, but of the prohibitions in Section 1913 of Title 18 of the U.S. Code. Section 1913, you will recall, also prohibits lobbying, unless otherwise authorized by Congress. Thus, we concluded that the exceptions in the LSC Act are also exceptions to the Treasury, Postal Service rider and Section 1913 of the U.S. Code.

Milton J. Socolar
May 11, 1981
Page Three

In 1978, Mr. Moorhead offered another rider to the LSC appropriation bill which simply extended the Treasury, Postal Service rider to legislation pending before state legislatures. Because it is the Corporation's opinion that Congress, in passing the LSC Act, created these narrow exceptions to the original rider, then logically our opinion extends to the Moorhead amendment with respect to activities before state legislatures. The Corporation, in determining the appropriate statutory construction, relied on language in the Senate appropriation committee report:

> The Legal Services Corporation Act, as amended, governs the legislative activities of legal services programs by prohibiting activities designed to influence legislation, except under three narrowly drawn provisions. Like section 607(a) of the Treasury, Postal Services, and General Government Appropriation Act with respect to legislation pending before Congress, a proviso inserted by the House has been retained in the bill to reinforce and clarify that funds appropriated be governed by the provisions of the Legal Services Corporation Act, as amended, when utilized for activities designed to influence legislation pending before State legislatures, as well as Congress.
>
> S. Rep. No. 95-1043, 95th Cong.,
> 2d Sess. 78 (1978).

It is our understanding that this language was inserted by the Committee as a condition for accepting the original Moorhead rider. Because it did not change substantive law in an appropriation bill, the Committee accepted the rider in 1978 and subsequent years.

We believe that there is a reasonable basis for differences of legal opinion in this matter. The Corporation's interpretation is based on accepted rules of statutory construction. However, the fact of the difference has caused much of the present confusion with respect to the extent and type of activities which are permitted to be undertaken by legal service personnel and has led to allegations of improper lobbying activities. The House Judiciary Subcommittee has carefully reviewed this issue and has made extensive revisions to this section of the Act in an effort to clarify this matter. As you know, with respect to the Corporation it has simply inserted the prohibitions of Section 1913 of the U.S. Code with no exceptions. It has also incorporated the publicity and propaganda language from both the Treasury, Postal Service and the Moorhead riders into the provision governing recipient activities. While we did not necessarily support this change, we can assure you that the Corporation and its grantees will follow the intent of Congress as it is expressed in the amended governing statute.

In the meantime, while we disagree with GAO's view of the interpretation of the various related provisions of existing law, and thus draw different conclusions about possible violations, we are making certain changes in our present activities. Prior to receipt of your opinion, I directed all personnel of the Legal Services Corporation to stop any and all activities coming within the GAO definition of grass roots lobbying activities. We stopped all mailings to that effect upon receipt of the original complaint from Congressman Sensenbrenner. It was our hope that this issue could be resolved quickly by the Congress.

With respect to our recipients, I will immediately bring your opinion to the attention of the Board of Directors and request that the Board consider necessary changes in the relevant regulations.

I will keep you advised of the Corporation's actions regarding this matter.

Sincerely,

Dan J Bradley

Dan J. Bradley

The CHAIRMAN. In fact, the Corporation's regulations were not changed until last year, some 2½ years later; is that correct?

Mr. CURTIS. That's correct.

The CHAIRMAN. For the record, how many opinions or reports has the GAO submitted since 1980 to Members of Congress that recommended that the Corporation amend its regulations governing lobbying, to ensure that they mirrored existing law?

Mr. CURTIS. We issued one report and two opinions prior to the change in LSC regulations, and one thereafter.

The CHAIRMAN. So four?

Mr. CURTIS. Yes, sir.

The CHAIRMAN. In your testimony you also indicate, Mr. Curtis, despite whether one could classify the directions coming from Washington concerning the survival campaign to be suggestions or orders, that the one regional director that you did interview felt them to be directives to be implemented immediately. Would you please explain this observation for the record?

Mr. CURTIS. Our observation was based on a direct statement by the regional director that——

The CHAIRMAN. Is that David Gilbert?

Mr. CURTIS. Yes, sir.

The CHAIRMAN. OK.

Mr. CURTIS [continuing]. That there was no question in his mind that these memorandums represented LSC "policy statements" which the regional offices were strongly encouraged to implement.

The CHAIRMAN. Did this Denver regional director, Mr. David Gilbert, monitor local program survival activities to ensure that they were consistent with the Corporation's survival strategy?

Mr. CURTIS. Yes, sir, it is our understanding that Mr. Gilbert kept generally informed of the survival activities in his region.

The CHAIRMAN. Were the grassroots activities that you found to be going on in Texas and, I believe, New Mexico, Arizona, and Colorado consistent with the survival strategy set forth by the Corporation?

Mr. CURTIS. Yes, sir.

The CHAIRMAN. In other words, they were doing exactly what the Corporation told them to do?

Mr. CURTIS. That's our observation, yes.

The CHAIRMAN. As you noted earlier, we also asked GAO to look into several other issues involving the Corporation; namely, fund balances, the transfer of property out of the Corporation, the establishment of mirror corporations, and ideological layoffs.

Now, turning first to fund balances, did you find that LSC fund recipients were accumulating large fund balances?

Mr. CURTIS. Yes, sir. Our 1980 report showed that several million dollars were being held in that regard and I'd ask Mr. Hansen to comment further on that matter, sir.

The CHAIRMAN. Mr. Hansen?

Mr. HANSEN. As Mr. Curtis pointed out, in our August 1980 report we noted that millions of dollars in unused grant funds had been accumulated by LSC fund recipients because they were not required to return unspent funds at the end of the fiscal year. We noted that these unused funds were deposited in checking and interest-bearing savings accounts and, in some cases, invested in interest-bearing Treasury bills.

While we made only a preliminary review of the most recent fund balance issues that you and Senator Denton have raised clearly, GAO had identified as early as August of 1980 that millions of dollars in fund balances were being accumulated.

The CHAIRMAN. According to your investigation, did the Corporation lay off employees based upon their political ideology?

Mr. HANSEN. We found no evidence that people were RIF'd based on political ideologies, Senator.

The CHAIRMAN. OK. So you believe the layoffs were conducted legally and in a responsible manner?

Mr. HANSEN. Yes, sir.

The CHAIRMAN. OK.

According to your investigation, did the Corporation improperly transfer property to the National Legal Aid and Defenders' Association and others? I guess we're still sticking with Mr. Hansen?

Mr. HANSEN. Mr. Chairman we've completed our review of this issue; however, there is still a pending Department of Justice investigation which precludes us from discussing our findings and conclusions at this time. However, we would be happy to provide this for the hearing record once the Justice Department investigation is complete.

[The information follows:]

Our review found that LSC's transfer of property to the National Legal Aid and Defender Association and others was proper and complied with LSC guidelines for disposing of surplus property. Further, the value of the transferred property, most of which was donated to LSC fund recipients, was about 43 percent less than LSC's initial estimate, because the estimate was based on the orginal cost of the property, rather than its depreciated or book value at the time of transfer. The original cost of the transferred property was $79,920, while the book value as shown in LSC accounting records at the time of transfer was $45,367.

The CHAIRMAN. OK.

Have you completed your investigation of materials concerning what have been called "mirror corporations"?

Mr. CURTIS. No, sir; we have not. We plan to meet with staff of this committee and discuss what further work will be done on that subsequent to these hearings.

The CHAIRMAN. OK. Now, one final question, Mr. Curtis. Do you believe that current law governing the use of Legal Services funds for the purposes of lobbying as found in H.R. 3222, Public Law 98-166, can prevent a recurrence of the illegal grassroots lobbying going on in 1980 and 1981?

Mr. CURTIS. Mr. Chairman, we believe that it certainly should be a significant deterrent in that it clearly spells out what activities are illegal; however, I'd like to have Mr. Lupton comment further in terms of whether it will or will not prevent it.

Mr. LUPTON. In our May 1, 1981, opinion, we indicated that GAO did not have authority to settle the accounts of the Corporation. It is therefore possible for the Corporation to expend appropriated funds in violation of statutory restrictions without anyone being able to take enforcement action, such as holding some official pecuniarily liable for an improper expenditure, to deter future violations. Also, the restrictions you mentioned are included in an appropriations act, which is temporary law, instead of being included as provisions of the Legal Services Corporation Act, which is permanent law. As temporary law, these restrictions must be reenacted annually. Often appropriations are included in continuing resolutions, where such restrictions do not appear, but may be incorporated by reference or in some cases omitted.

We would therefore recommend that these restrictions be enacted as amendments to the Legal Services Corporation Act.

The Chairman. Well, thank you.

I would just summarize. Would it be fair to say that, with regard to the States that you investigated, that survival campaign created by the Corporation was, in fact, implemented and operated?

Mr. Curtis. Yes, sir.

The Chairman. That's a fair statement.

Well, I want to thank all of you for appearing here today.

We're going to turn to Senator Denton, but before we do, let me, without objection, put Senator Thurmond's statement in the record immediately following that of Senator Denton. And I might add that a number of our colleagues on this committee would like to have the record kept open until Friday, this Friday at about 6 p.m. for any questions they would care to submit. So we will keep the record open, and if you can answer their written questions as best you can, as soon as possible, we'd appreciate it.

[Material supplied follows:]

Senator Thomas F. Eagleton's Questions to the General Accounting Office and Answers Furnished by the GAO

Question. In your investigation on the "survival" effort at the Legal Services Corporation, did you find any indications of what GAO viewed as violations of the law subsequent to the May 1981 Bradley letter advising GAO that the Corporation would comply with GAO's interpretation of the law?

Answer. Our review of survival activities in Texas and other states within LSC's Denver region identified grass roots lobbying activities which in our opinion violated federal law performed after Mr. Bradley's May 11, 1981, letter to GAO. Further, Mr. Bradley told us that despite his May 1981 letter to us, grass roots lobbying in violation of his agreement probably continued. However, LSC funded programs were not technically required to comply with Mr. Bradley's agreement on grass roots lobbying until March 1983 when LSC approved revised lobbying regulations which applied Mr. Bradley's agreement to LSC funded programs.

Question. In the course of your investigation was there any evidence that the Corporation officials expended large sums of money for lobbying or political activities to preserve the Corporation?

Answer. LSC and local programs in Texas and other states within LSC's Denver region committed staff time and federal funds to survival-related lobbying activities. However, we were unable to determine how much time was spent on the activities because local programs do not generally maintain timekeeping records which specify the activities an individual performs.

Question. As I am sure you are aware, in the only legal proceeding ever to consider the legality of the Corporation's interpretation of the Act's restrictions on lobbying, a judge rejected the charge that a program violated the Act and found that the Corporation's interpretation of the Act was reasonable. Did you study that legal decision in developing your interpretation of the Act?

Answer. We understand that the legal opinion you have reference to is a decision of an administrative hearing conducted by the Honorable Ralph Drummond who was appointed by the President of the Legal Services Corporation to conduct a hearing *In the Matter of Review of the Preliminary Determination by Legal Services Corporation to Deny Refunding to the Western Center on Law and Poverty, Inc.* This decision was rendered on March 12, 1984 and GAO did not receive a copy of it until approximately April 1, 1984. Our four reports and legal opinions interpreting the lobbying restrictions of the Legal Services Corporation Act of 1974 were rendered between August 28, 1980 and September 19, 1983, before the administrative decision mentioned above was issued. On April 4, 1984, the President of the Corporation reversed the Drummond decision. Finally, this Office does not consider itself bound by administrative decisions such as the Drummond decision, even if it had been available.

Question. Is it not correct that none of the lobbying activities you characterize as in violation of the law were illegal prior to May 1 under the Corporation's interpretation of the governing laws as implemented through the regulations then in effect?

Answer. Yes. Despite our report HRD-80-103 of August 28, 1980, and our decision B-163762 of November 24, 1980, that construed the Legal Services Corporation Act of 1974 and other applicable laws as prohibiting the Corporation and its recipients from using Federal funds to engage in grass roots lobbying, the Corporation continued to interpret these laws as allowing such activities until approximately May 1, 1981.

Senator DENTON. Thank you, Mr. Chairman. I would also like to thank you gentlemen; I've had occasion to review other investigations that you have conducted, and I have great admiration for your objectivity and requisite honesty in conducting your investigations. They have to be that way or you wouldn't be of much use, and you are of great use to our Government.

Mr. Curtis, were you able to determine the amount that the Corporation and its grantees actually spent on the survival campaign?

Mr. CURTIS. No, sir, we were not, but I believe that Mr. Hansen, who worked in that area, can probably explain some of the reasons why we were not able to make this determinations.

Mr. HANSEN. Senator Denton, although the Corporation and the local programs in Texas and other States in the LSC Denver region which we reviewed clearly committed staff time to survival-related activities, we were unable to determine how much time was actually spent on these activities because local programs do not generally maintain timekeeping records which specify the activities an individual worked on.

Senator DENTON. Were you able to get some idea whether or not staff time was clearly spent on those survival activities at the expense of service to clients?

Mr. HANSEN. Here again, Senator, it was difficult for us to determine how many clients may have been denied service because LSC does not collect this kind of information. However, LSC's former president did tell us he felt performance of survival-related activities by local programs likely affected the number of clients that were being served.

We have attempted to look into statistics on the number of cases closed at the Corporation during the period in question. We're aware that LSC has concerns about the quality of information that they have and, in fact, we have received several different sets of statistics from LSC on this issue. We are in the process of reconciling those statistics and would be happy to provide them for the record.

[The information follows:]

To determine whether survival activities affected the number of cases closed by LSC funded programs, we compared LSC statistics on the number of cases closed during 1980, 1981, and 1982 with the LSC funds (annual grants and fund balances) field programs had available for serving clients during these years.

While the change in the number of cases closed during this period appears commensurate with changes in the LSC funds available to field programs, LSC does not collect statistics on the number of clients requesting service who were turned away by field programs. As a result, we do not believe a definitive conclusion can be drawn on the effect of the survival campaign on service delivery.

Senator DENTON. There appears to be some evidence in your written testimony that staff directors were diverted from client service and at least one example of an estimate of how much time, a very rough estimate—the Denver regional director acknowledged that performance of survival activities in Arizona, "likely consumed a considerable amount of time," and that in New Mexico, the caseloads of certain local program attorneys—this is a quote too—"the caseloads of certain local program attorneys were reduced by 10 to 15 cases to facilitate performing these activities."

I'll agree that is a statement regarding Arizona, but at least it is one statement which indicates that some attorneys had their caseloads reduced by 10 to 15 cases. In other words, it's an order-of-magnitude-type estimate.

Mr. HANSEN. Senator, in the New Mexico example you cited, a reduction in caseload of 10 to 15 cases would have been about 20 to 30 percent of their time, assuming as the Denver regional director told us that the average caseload of these attorneys was about 50 cases.

Senator DENTON. Then there is no doubt in your minds, nor should there be in the minds of the members of this committee and of our public, that there was considerable cost to the taxpayer, and some cost—which would be not inconsiderable—to indigent clients.

Mr. HANSEN. Clearly, there was staff time committed by the programs we reviewed.

Senator DENTON. Would you agree that the Corporation's unwillingness to require the maintenance of thorough records makes it very difficult for anyone to determine accurately what local programs have been spending their money on?

Mr. HANSEN. Certainly, the Corporation has to have thorough and accurate information on what their programs are doing if it is to carry out its statutory responsibility to ensure that these programs are not spending money in a way that would violate Federal law.

Senator DENTON. Could you give us any specific recommendations as to improving the regulations so as to specify what better accounting should be kept?

Mr. HANSEN. We have not recently looked at the difficulties in the information management systems at the Corporation. We are aware that the Corporation is actively involved in trying to improve the data that they gather from local programs, but we have not looked at that in any great detail at this point in time.

Senator DENTON. Let me ask you a related—a question related to another area, but since I have you gentlemen here I can't resist the opportunity.

When you have Government grantees, Government-funded grantees who not only receive Government funding but also private funding, what effort are we making to separate out the manner in which the private and Government funding is respectively apportioned? We have a tremendous problem with that in a number of areas. Is there any qualitative statement you can make? Is it a hopeless situation, or is there something that can be done or is being done about that, Mr. Curtis?

Mr. **Curtis**. Certainly you would have to have improved information and records. This is something which they're working on now.

Mr. Hansen, do you have any other information on that?

Mr. **Hansen**. Senator, it's not a matter that we have directly looked into at this point in time.

Senator **Denton**. I understand that. The question was more general and related to Government grantees across the board who also receive private funding, and the apparent impossibility to separate out forbidden expenditures for Government-funded portions, and no way to account for whether the expenditures were from Government or private funding.

Mr. **Hansen**. I would note, Senator, that the audit reports local programs are required to submit to the Corporation and to us do separate out non-LSC funds they receive and how they were utilized.

Senator **Denton**. Would you, Mr. Curtis, say that wouldn't be a bad idea with respect to all Government-funded grantees who receive private funding also, that they be required to separate out how they expend that money? If you can do that to LSC, I don't know why we can't do it to other grantees.

Mr. **Curtis**. It certainly might better enable those who review those programs to determine how the moneys were used.

Senator **Denton**. All right. Thank you very much, gentlemen. I'll close with that question and return it to you, Mr. Chairman.

The **Chairman**. Thank you, Senator Denton.

I want to thank each of you for coming. I appreciate the work that you do, and you've been very helpful here to help us to get to the bottom of some of these things; and this committee just expresses its gratitude to you.

Mr. **Curtis**. Thank you very much, Mr. Chairman.

The **Chairman**. Our next witness will be Mr. Donald Bogard, the President of the Legal Services Corporation.

Mr. Bogard, we're happy to welcome you here and we'd appreciate it if you would summarize in the interest of time. If you can, it would be very much appreciated.

Go ahead.

STATEMENT OF DONALD P. BOGARD, PRESIDENT, LEGAL SERVICES CORPORATION, ACCOMPANIED BY THOMAS OPSUT, DIRECTOR, OFFICE OF COMPLIANCE AND REVIEW; JAMES NORELL, CONSULTANT, OFFICE OF GOVERNMENT RELATIONS; GENE POTACK, ACTING DIRECTOR, OFFICE OF FIELD SERVICES; JOEL THIMELL, CONSULTANT, OFFICE OF GOVERNMENT RELATIONS; AND PETE WEBBER, CONSULTANT, OFFICE OF FIELD SERVICES

Mr. **Bogard**. Thank you, Mr. Chairman. It's a pleasure to be here this morning.

I would like to have the prepared statement that we have already submitted added to your record and, at your request, I will be glad to summarize those remarks.

We have asked last year, and are again asking this year, that the Corporation be reauthorized for a period of 3 years. We have also submitted a previous request to the Congress that we be granted a budget for 1985 in the range of $325 million. This would represent an 18-percent increase over our current funding, and a 35-percent increase over the funding in 1983.

If this funding were granted by the Congress, it would make our local programs funded at an equalized rate of $8.23 per poor person, which would be a 64-cent increase over the current funding level. Added to that, we have asked for a 10-percent increase for Native American funding. Then we have asked for approximately $30 million in special funding, which would be broken down as follows. We would have $7.2 million for the institutionalized elderly and handicapped, $2 million for an emergency special needs fund, $1 million for technological improvements for our recipients, and a separate fund of $20 million which we could use for private attorney involvement. We would target this into special areas, into special programs. For example, private legal clinics, law school clinics, services to the rural areas, and incidence like that.

We intend to hold all Corporation expenditures and other expenditures at the current level and therefore not increase the cost of operating the Corporation. We do not mean, by that, that we won't be giving raises to our employees; we intend to make savings in other areas so that we can still properly reward them for the work that they are doing.

We're very concerned over the maldistribution of funds by the Corporation. In 1983, the per-person funding ranged from $4.23 to $17.20 throughout the country. That's been somewhat better this year in that we have a low of $6.80 and a high of $18.06; nevertheless, we feel that that's much too wide a disparity. As a matter of fact, we have 107 programs that are funded at the lowest level.

If you were to equalize the funding that we were given this year, it would be $7.59 per poor person, so you can see, with 107 programs at $6.80, several of them are underfunded. We would like to see that restriction eliminated; it was placed on us in 1982 in the continuing resolution. It was carried forward in the appropriations bill this year. It primarily requires that we fund programs at their previous levels, with certain increases. We feel that the Corporation should be allowed to make its own determination of what would be appropriate levels of funding to try to make the funding more equalized so that there is not such a great disparity, and make sure that everyone has enough funding to do an adequate job.

We have retained the services of a private economist, Dr. David Peterson. He has submitted a proposed funding formula to the Board of Directors for its consideration; that funding formula would not rely solely upon the census count, as has been happening in the past. As a matter of fact, that's a four-factor formula that he has presented to us. He would use the 1980 census, which would be 70 percent of the formula; then he would put in a rent cost income ratio of about 20 percent, and this means that for those people who have an income under $5,000 and expend 35 percent or more of their income, they would get special consideration in the formula.

And then also include job lag and unemployment. These four factors would then be adjusted, maybe every 2 years or so, to make sure that the programs are properly funded and make sure that changes in any particular area would be accurately reflected in the funding that the programs in that area would receive.

We also are very firmly committed to the increase of private bar involvement in this program. The Board of Directors has taken a strong statement that they're interested in that; they have passed a resolution increasing the amount of private bar that was originally set by the Board in 1981. We think that's the only way that we can go for increasing services unless the Congress is going to give us a tremendous increase in funding, and I don't see how that can happen in the very near future.

To me, with 622,000 private lawyers in the country and 35,000 to 40,000 more graduating each year, and the possibility of a million lawyers by mid-1990, it seems that it's only worthwhile and it only makes good sense for us to involve them in the private delivery of legal services.

We have requested that the programs this year increase their private bar involvement from 10 percent to 12½ percent. We think that will have a significant impact, and we hope to monitor that and make more recommendations to the programs in the near future.

We have also been very involved in trying to leverage the funding that Congress gives us so that we can get the most out of the money that we have. One of the programs which we discussed the last time we were here was the IOLTA program, interest on lawyer trust accounts. Last year, those programs had been adopted in about 7 States; right now, 22 States have adopted the programs, and we feel they have a very significant impact on the availability of funding for legal services.

In that regard, we have given out grants to the Florida Justice Institute to make a coordinated clearinghouse nationwide to try to increase the availability of information on these programs to other States so that they could consider them. We've given grants to 13 States to try to study the program, and we think it's having a very significant impact. For example, in California approximately $6 million a year is being raised through this program. When you consider that we give California $21.3 million, that works out to about a 29- or 30-percent increase. It's all private money, it comes from money that's never been generated in the past for anyone except the banking industry, and we think it'll be a very significant impact. Florida, for example, has already distributed $1.5 million in funds to legal services programs around the State of Florida.

So we think that's another way to try to leverage our money. We put less than $400,000 in it, and we think we're going to get millions and millions back for direct delivery of services.

We also have started, this year, an effort to try to get private legal clinics to do standardized, repetitive cases on a contract basis. We have started this process in Jacksonville, Phoenix, Laredo, and Des Moines. We hope to be making the first grants in the Jacksonville area by the end of this month, and the response in Jacksonville has been actually phenomenal. We're getting bids on uncontested divorces that are so low that it's just hard to believe, and we're probably going to be able to get twice the amount of service out of that for the amount of money that we expected to put in. It's going to be a very worthwhile program; and if it is as successful in other states, in other cities, as we think it's going to be in Jacksonville and Des Moines and Laredo, then I think that the $20 million that we've asked for next year can have a significant impact for the direct delivery of services.

There is one thing that I would like to bring to the committee's attention. It's a problem that we have in the Corporation for our employees. As I'm sure you know, last year there was an amendment to Social Security law which provided that 501(c)(3) corporations are subject to Social Security tax. Our employees are also Federal employees for purposes of civil service retirement; so, as a result, Corporation employees are subject to double withholding, and that means that 13.7 percent of their salaries go for retirement benefits. We would, of course, like to see that eliminated and have us just subject to one of the programs; and I understand that a tax bill has been reported out by the Finance Committee earlier, and corrective legislation is contained in that. We would hope the Senate would be supportive of that and eliminate that double withholding for our employees.

We want to thank the committee for its interest in Legal Services Corporation. The increased funding is good for our programs. We think that the controls that have been placed in the appropriations bill are important, and that most of those should be continued. We think that the program, as we are trying to develop it, is to be more involved in the direct delivery of legal services to the poor; and our results this year, I think, are significant. We have shown that about 1,300,000 cases were closed last year by the recipients of our funds. That's the highest ever in the history of the Corporation. Even in 1981, when they had $80 million more, they closed about 50,000 to 60,000 cases less than the people closed last year, and I think that's very significant and I hope that it shows that the way this program is going we are getting more people involved, more private bar people involved, and that this will increase the service and make even more service available to the poor people of the country.

I'd be pleased to answer any questions you might have.

[The prepared statement of Mr. Bogard follows:]

TESTIMONY BEFORE THE COMMITTEE ON LABOR AND HUMAN RESOURCES

By

Donald P. Bogard
President
Legal Services Corporation
April 11, 1984

Thank you for giving me this opportunity to appear before this Committee. I am here to ask that the Legal Services Corporation be reauthorized and for your support for our efforts to expand and improve this program. I have requested $325 million for fiscal year 1985. This represents an 18 percent increase over LSC's current budget and a 35 percent increase over 1983.

Although the request is large, the Corporation believes it is justified because the increase is earmarked for specialized direct delivery of services to underserved clients such as the institutionalized elderly and handicapped and the rural poor who cannot be served simply by increasing the size of existing programs.

This request will provide $8.23 per poor person on an equalized basis for existing programs, an increase of 64 cents per person over our present level, and a 10 percent increase in funding for Native American programs. In addition to substantial increases for current programs, the proposed budget provides for $7.2 million for the institutionalized elderly and handicapped, and $2 million to meet emergency special needs created by natural disasters or sudden economic setbacks. It provides $1 million for technological improvements for our recipients and $20 million for private attorney cases which can be targeted to meet needs of rural areas or to take advantage of the efficiency and effectiveness of legal clinics or attorneys with specialized experience. The Corporation plans to hold all corporate costs and other expenditures to their current levels.

I am concerned that the requirement for distribution of our grant funds mandated by language in the 1983 and 1984 appropriations measures has resulted in severe inequalities of access to legal services among the nation's poor. In 1983, funding ranged from $4.23 per poor person in a California program to $17.20 for our grantee in Alaska. Eighty-three programs received less than $6.00 per poor person and 134 received less than the $6.63 we could have provided had we been free to distribute funds on an equalized basis.

The situation has improved somewhat under the 1984 appropriations, but funding levels still range from $6.80 in the majority of our programs to $18.06. If our 1984 appropriation were to be distributed in direct proportion to the poverty population count of the 1980 census we could fund each of our programs at a level of $7.59 per poor person. Instead, under the formula of our appropriations bill, 107 out of 287 basic field programs are funded at 80 cents per person below that level.

The impact of these discrepancies on potential clients seeking service can best be understood by examining two legal services programs serving roughly the same number of poor people. According to the 1980 census, the Rural Legal Aid Society of West Central Ohio serves 57,829 persons with incomes below the poverty threshhold. In 1984, this program is receiving $393,174 to serve those people, or $6.80 per poor person. Alaska Legal Services on the other hand serves 55,898 people or roughly 2,000 fewer than the number with income below 100% of poverty level served by the Ohio program. It is receiving $1,009,640, or $18.06 per poor person. There is no question that their cost of delivering services exceeds that in Ohio, but does it warrant a grant almost three times as large? What does the $600,000 difference mean to clients? It means that people with serious high priority legal problems are being turned away in Ohio while persons with less urgent problems can be served in Alaska. Last year the discrepancy was even greater, when the Alaska program received $961,000 (or $17.20 per poor person) compared to $335,857 (or $5.81 per poor person) for the Ohio program.

Having said this, let me emphasize that we are not advocating that legal services funds be allocated solely on the basis of the 1980 census poverty count. There have been significant shifts in the location of the nation's poor since 1980 as a result of such things as high unemployment in the coal, steel and auto producing areas. In addition, the poverty count does not take into consideration the fact that regional differences in the cost of living may make it as difficult for a client to afford an attorney in San Francisco or Seattle on an income of $11,100 as it may be on a $9,000 income in the rural South.

Our Board of Directors is currently considering a proposal made by a consultant to the Corporation for a new funding formula. Dr. David Peterson, an economist who has done work on this subject for HUD and Farmer's Home Administration, recommends that our funds be allocated on the basis of the following four factors:

1. 1980 census data on the number of poor in each area in 1979 to be updated on the basis of the latest Current Population Survey data for groups of states — which he suggests receive a weight of 70 percent initially, with lesser weight to be given as the 1980 census data grows older;

2. A Rent-Cost/Income ratio — that is — the number of persons with incomes below $5,000 who must devote 35 percent or more of their income to rent, with a suggested initial weight of 20%;

3. Job lag — the degree to which the growth in the number of employed persons lags behind the national rate of growth, with a suggested weight of 7.5 percent; and

4. Unemployment — with a suggested weight of 2.5 percent.

Finally, he suggested that we set aside a small amount of funds to make supplemental grants to grantees in areas with exceptionally high costs of living such as San Francisco, Alaska and Hawaii. Our staff also has recommended that a small sum be reserved for supplemental awards to programs serving rural counties with exceptionally low population density.

Our Board of Directors has not yet made a final decision to adopt Dr. Peterson's formula. We believe that a multi-factor formula can more accurately reflect the relative need of various communities for legal services funding than a formula tied solely to the poverty count. We also believe strongly, however, that funds should be allocated on the basis of current demographic data, not on the basis of outdated 1970 census data and not on the basis of arbitrary decisions made by OEO officials 20 years ago. That is what Congress has done by requiring that the great bulk of our funds, the first $197 million of basic field funds, be allocated just as it was in 1982 when county level 1980 census data was not available.

In that connection, I should point out that the reauthorization legislation reported by the House Judiciary Committee last year would have required that the 1984 grants be made in direct proportion to the 1982 grants. This could have meant that the Legal Aid Society of Orange County, California would have had to settle for $4.83 per poor person when the appropriation was large enough to support $7.59, while Alaska Legal Services' funding would have risen from $17.20 to $19.63 per person. I do not think that is what Congress wants, but that is what the Judiciary Committee bill would have done. I urge you and your colleagues to give the Corporation, which you created to manage this complex program in an efficient manner, the authority to make allocation decisions.

There are 622,000 attorneys in the country and by the middle of the next decade there will be over one million; 5,000 work in LSC funded programs. With that ratic, and considering the federal deficit and all the worthwhile but competing demands of our tax dollars, it is obvious that the private bar must play an increasing role if we are to expand service.

Congressional interest in greater participation by the private bar in legal services delivery and the Corporation's commitment to leveraging its appropriation to secure additional legal assistance from the private bar are beginning to pay major dividends. For example, the IOLTA program, which we discussed last year, has now been approved in 21 states.

LSC made a grant of $200,000 to the Florida Justice Institute to assist states in studying the adoption of this program. In California, $6,000,000 is expected to be raised through the IOLTA program during this year. Considering the fact that LSC grants to California programs total $21,300,000, it is obvious that this 29% increase in funds can play a major part in expanding the delivery of legal services.

Florida last year distributed over $1,500,000 in grants to legal services providers.

Private attorney involvement is increasing in other ways, as well. Our local grantees are expected to allocate 12 1/2% of their funds to PAI and this will substantially broaden and diversify the participation of attorneys in delivery of services to poor clients.

We are studying the use of law schools and legal clinics, two delivery mechanisms which hold great promise for cost effective delivery.

I want to call to your attention a particular problem we have which may require legislative relief. Although LSC is a private 501(c)(3) corporation, our employees are treated as employees of the United States for purposes of Civil Service Retirement. Because of our unique status, we are subject to double withholding, that is full withholding from wages under both FICA and CSR. I do not believe Congress intended this result and I ask for your help in correcting this problem. The Finance Committee included corrective legislation in the tax bill they recently reported out and I ask for your support in retaining this provision on the floor and in conference.

I am enthusiastic about the task of delivering legal services to our clients, and I am pleased to report that we close over one million cases a year. There are problems only a lawyer can help someone with and we do not have a budget large enough to meet all the demand for those services which only we can provide. That is why it is wrong to allow our limited resources to be diverted into lobbying or creating political networks or coalitions.

I want to express my appreciation for the time and attention you have been willing to devote to LSC. I realize that the GAO and this Committee recently documented serious instances of wrongdoing at the Corporation, but I want to state strongly that the charges made against legal services do not in any way diminish my belief in the need for a strong, independent legal services program. When this program does what it was set up to do — the delivery of legal assistance to low income individuals — it has public support. It is only when the resources of the program are diverted from legal assistance and used for political purposes that the program suffers and, more importantly, that the poor people we are supposed to serve, suffer.

The CHAIRMAN. Well, thank you for your testimony, Mr. Bogard.

As I mentioned in my opening statement, there are several issues that I would like to discuss with you; but before beginning those, I would like to ask you about Ms. Mary Dews of Dallas, TX. As I believe you know, a member of my staff, accompanied by Mr. Peter Brocolletti who was then with your Office of Compliance and Review, interviewed Ms. Dews last summer concerning her allegations that staff members from North Central Texas Legal Services Foundation had engaged in prohibited activities and had ignored the legal needs of eligible clients such as herself.

As I understand, Ms. Dews was a former member of that program. Following the interview by my staff she was questioned by the director of the local program, Mr. Kenneth Shore; and according to Ms. Dews, Mr. Shore wanted to know what questions were asked during the interview, what her responses were, and then warned her about cooperating with the committee's inquiry. She said Mr. Shore told her that it would be her fault if legal services in the Dallas area were eliminated.

Now, this fall Ms. Dews contacted my staff and told us that her life had been threatened because of her cooperation with the committee. In turn my staff, among other things, notified the Corporation of the threat made on Ms. Dews.

My first question is, what steps did the Corporation take to help protect Ms. Dews and to ascertain whether Mr. Shore had, in fact, attempted to pressure her to not talk to our committee?

Mr. BOGARD. Mr. Chairman, I'd like for Tom Opsut to answer that question. Mr. Opsut is the Director of our Office of Compliance and Review, and that office is charged with investigating complaints against the recipients.

The CHAIRMAN. Mr. Opsut?

Mr. OPSUT. Mr. Chairman, after we were advised by your committee staff of the threat against——

The CHAIRMAN. Could you pull your mike a little bit closer?

Mr. OPSUT. After we were advised by your committee staff about the threat against Dews' life, we did contact Ms. Dews. We advised her.that it would be in her best interest and safekeeping for her to contact local law enforcement authorities, including the FBI, to report the incident.

As we understand it, the claim was made by an individual whom she did not know; that if she continued to make rumblings or complaints about her complainant concerning the Legal Services Program, that the statement was made that people knew where she laid her head at night—we have been in touch with Ms. Dews since that time, and there have been no similar instances. She is all right and well.

The CHAIRMAN. Well, I'm glad to hear that.

Could you also cover the pressure she claimed Mr. Shore was bringing upon her, not to deal with the committee?

Mr. OPSUT. That is a matter that is still under investigation by our office, and we have been in touch with Ms. Dews concerning that. It is her statement that that pressure did occur.

The CHAIRMAN. In your statement, Mr. Bogard, you indicate that you are recommending that the Corporation's budget be increased to $325 million. That's an increase of about 35 percent, as I understand it, over the budget for 1983.

Now, I have to admit I am a little bit surprised at the request for funding to the committee. The Corporation's recent history provides no indication whatsoever that the moneys are all going to be used properly. The last time the Corporation had a budget of this size, it generated over $40 in fund balances; it used the excess money to finance most of the activities which this committee has been questioning over the last 2 years.

In your opinion, what has changed in these last 12 months that would warrant such a drastic increase in the Corporation's budget? And I do acknowledge that you've given us some answers to that that are very interesting to me.

Mr. BOGARD. Well, I think that one thing that needs to be considered is that we aren't encouraging the type of activities that were encouraged previously and which led to the accumulation of fund balances and the expenditure of funds in manners inconsistent with the law.

In addition, there has been a fund balance instruction which has been adopted by the Corporation, and a regulation is under consideration now. Essentially, that will require that programs can retain up to 10 percent of their funding, but beyond that for the next year, they have to get a specific waiver from the Corporation, and then they shall be allowed to retain only up to 25 percent. All money above that would be returned to the Corporation to be reprogrammed to other programs that are not funded as well.

So we think there's more control, and we're certainly trying to follow all the restrictions that Congress is giving us for controlling the program.

The CHAIRMAN. Would you agree that one of the reasons for your statement today concerning the record handling of cases in 1983 is that there's a recommitment by the Corporation, to provide direct delivery of legal services?

Mr. BOGARD. Well, I certainly hope so. That's been the message we have been trying to put out since December 1982 when we came here. We are only interested in increasing the delivery of service, and we would like to do it on an individual, case-by-case basis.

The CHAIRMAN. OK.

Let me just turn to your recent decision to defund the Western Center on Law and Poverty for its operation of a political campaign to defeat proposition 9 in California in 1980. That's an extremely important decision because it marks the first denial of funding that you have made and, to the best of my understanding, it marks the first time that the Corporation has ever taken action against a grantee that has been found to violate congressional prohibitions on lobbying. And so at this point, I'd like to place your decision to defund the Corporation, and the preliminary decision issued by the hearing officer, Judge Drummond, into the record without objection.

[The material referred to follows:]

IN THE MATTER OF REVIEW OF THE PRELIMINARY DETERMINATION BY LEGAL SERVICES CORPORATION TO DENY REFUNDING TO THE WESTERN CENTER ON LAW AND POVERTY, INC.

Request For Review By The President Of Presiding Officer's Recommended Decision

Final Decision

I.

On January 4, 1984, the Legal Services Corporation (hereafter L.S.C.) mailed notice to the Chairperson of the Board of Directors of The Western Center on Law and Poverty, Inc. (hereafter Western Center) that L.S.C. had made a preliminary determination in accordance wth 45 CFR Part 1625 to deny refunding of the Western Center for 1984. Western Center filed a timely request for review of that preliminary determination, and Ralph M. Drummond, Judge (Retired) was named as the Hearing Officer.

A prehearing conference was conducted by Judge Drummond on February 27, 1984, and the hearing was held on February 29, 1984. On March 12, 1984, Judge Drummond issued his Recommended Decision that the L.S.C. may not deny refunding to the Western Center or terminate its grant. He further concluded that L.S.C.'s preliminary determination to deny refunding of the Western Center was substantially without merit. L.S.C. filed a timely request for review of that Recommended Decision by the President of the Corporation.

In conducting that review, I have read the transcript of the prehearing conference and the transcript of the hearing. In addition, I have examined all of the exhibits and viewed, for the first time, the video tape of the speech by Alan Rader at the project directors' meeting in the Denver region in January, 1981. I have also read the papers filed by the parties before the Hearing Officer and the papers filed in regard to the review of the Recommended Decision.

Based upon all of the evidence disclosed at the hearing, I conclude that the Recommended Decision should be reversed, and issue this Final Decision in accordance with 45 CFR §1625.11. This memorandum of decision contains the findings of significant and relevant facts required by 45 CFR §1625.10(b).

II.

On January 4, 1984, L.S.C. notified Western Center that it was being denied refunding for 1984 because:

> ...[s]ubstantial evidence has forced us to conclude that WCLP [Western Center on Law and Poverty, Inc.] has violated Section 1625.3(b) by failing to comply with the provisions of Sections 1006(d)(4) and 1007(a)(5) and (6) of the Legal Services Corporation Act and subsequent regulations.... Exhibit 1.

The proceeding was correctly instituted as a denial of refunding since Western Center's 1983 grant had expired on December 31, 1983, and a grant had not been issued for 1984.

Section 1625.3(b) of L.S.C.'s Regulations provides:

> [t]here has been significant failure by a recipient to comply with a provision of law, or a rule, regulation, guideline or instruction issued by the Corporation, or a term or condition of a current or prior grant from or contract with the Corporation; ....

The provisions of law with which Western Center was charged with failing to comply were Sections 1006(d)(4), 1007(a)(5), and 1007(a)(6) of the Legal Services Corporation Act (hereafter Act), which provide, respectively, as follows:

> (4) Neither the Corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment for use in advocating or opposing any ballot measures, initiatives, or referendums. However, an attorney may provide legal advice and representation as an attorney to any eligible client with respect to such client's legal rights.
>
> * * *
>
> With respect to grants or contracts in connection with the provision of legal assistance to eligible clients under this title, the Corporation shall-
>
> ...
>
> (5) insure that no funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to influence the issuance, amendment or revocation of any executive

order or similar promulgation by any Federal, State or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative bodies, or State proposals by initiative petition, except where-

(A) representation by an employee of a recipient for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities (which shall not be construed to permit an attorney or a recipient employee to solicit a client, in violation of professional responsibilities, for the purpose of making such representation possible); or

(B) a governmental agency, legislative body, a committee, or a member thereof-

(i) requests personnel of the recipient to testify, draft, or review measures or to make representations to such agency, body, committee, or member, or

(ii) is considering a measure directly affecting the activities under this title of the recipient or the Corporation.

(6) insure that all attorneys engaged in legal assistance activities supported in whole or in part by the Corporation refrain, while so engaged, from-

(A) any political activity, or

(B) any activity to provide voters or prospective voters with transportation to the polls or provide similar assistance in connection with an election (other than legal advice and representation), or

(C) any voter registration activity (other than legal advice and representation):

Section 1006(d)(4) of the Act has been included in L.S.C.'s Regulations at 45 CFR 1608.3(b):

> Neither the Corporation nor any recipient shall contribute or make available Corporation funds, or any personnel or equipment:
>
> (1) To any political party or association;
>
> (2) To the campaign of any candidate for public or party office; or
>
> (3) For use in advocating or opposing any ballot measure, initiative, or referendum.

Pursuant to 45 CFR§1625.9 of L.S.C.'s Regulations:

> [t]he Corporation shall have the obligation of proving, by a preponderance of the evidence contained in the record, any disputed fact relied upon by the Corporation as justification for denial of refunding; with respect to all other issues, the recipient shall have the obligation to establish that the Corporation lacked a substantial basis for denying refunding.

Here, Western Center has not carried the burden of proof.

III.

The record in this proceeding shows that the Corporation had a substantial basis for denying refunding of Western Center. On September 19, 1983, the Comptroller General of the United States issued a report to Senator Hatch, Chairman of the Committee on Labor and Human Resources, which determined that the Western Center had violated several provisions of the law. See Exhibit 1, Attachment 1.

Specifically, the Comptroller General discussed the video cassette recording of a training session at a Denver Regional Project Directors' meeting in Boulder, Colorado, in January, 1981. A transcript of part of that video tape has been admitted as Exhibit 1, Attachment 3. On that video tape, Alan Rader, Senior Attorney for Western Center, described the activities undertaken by the Western Center to defeat Proposition 9, a ballot initiative to reduce the state income tax in California.

As stated in Paragraph II above, Section 1006(d)(4) of the Act prohibits L.S.C. and its recipients from contributing or making available corporate funds, program personnel, or equipment "for use in advocating or opposing any ballot measures, initiatives, or referendums". A narrow exception allows an attorney to provide "legal advice and representation as an attorney to any eligible client with respect to such client's legal rights". (Emphasis supplied.)

The Comptroller General's Report and the transcript of the video tape clearly show that the actions by the Western Center in regard to Proposition 9 went far beyond "legal advice and representation as an attorney". A "Special Needs Grant" was solicited from L.S.C. in the amount of $61,665 "to assist clients regarding Proposition 9 on the June 3, 1980 California ballot", Exhibit 1, Attachment 4. The grant was received, Exhibit 1, Attachment 5, and the funds were expended, Exhibit 1, Attachment 8; Exhibit 29. However, they were expended for purposes other than legal advice and representation as an attorney. Mr. Rader described the following activities undertaken by the Western Center:

1. Began to work with groups such as unions and the educational lobby which "would be the backbone of a statewide public campaign in opposition to Proposition 9" to help them to get organized and to move the process along quickly. Exhibit 1, Attachment 3, p. 10.

2. Put together a Legal Services network of local programs, _id_.

3. Secured a commitment of resources by local programs, _id_.

4. Hired five coordinators to run the campaign and one media coordinator, _id_., at 11; Exhibit 1, Attachment 1, p. 5; Exhibit 29; Exhibit 31.

5. Appointed Rader and Ani Hurwitz, another Western Center attorney, to oversee the statewide effort, Exhibit 1, Attachment 3, p. 11.

6. Assisted client groups in negotiating with local welfare offices to place group members in the lobbies of the welfare offices to do voter registration, _id_., at 12.

7. Put client groups in touch with "people" who had expertise in running voter registration campaigns, _id_.

8. Helped local client groups, through one of the coordinators, with the media, _id_., at 13.

9. Hired coordinators who had experience in political campaigns, _id_., at 14. The field coordinators gave local program staff and their clients advice and technical assistance on subjects

beyond the expertise of some staff attorneys, such as how to get voter registration materials or access to public facilities for registration, Exhibit 49, paragraph 23.

10. Identified, through the field coordinators, local groups that clients could contact, id., at paragraph 24. The field coordinators helped local program staff and clients make contact with talk shows and develop their presentations, id., at paragraph 25.

These activities are not required to be performed by attorneys and do not involve "legal advice and representation as an attorney". In fact, the Recommended Decision acknowledges at Finding of Fact 9 that Western Center's work consisted primarily of gathering information on the potential effects of Proposition 9 and explaining that information to clients and local legal services attorneys. Likewise, this is not legal advice and representation as an attorney.

Mr. Rader also listed activities not requiring attorneys in a memorandum to the Jarvis II Task Force on January 15, 1980, under the subject "Legal Services Role in Jarvis II Campaign":

> The second step is to develop a list of local organizations who are likely to be sympathetic to an effort to oppose Jarvis II. It is clearly essential that we mobilize our client groups... What is more essential, realistically, is to approach groups with whom many of us have had little previous contact, but who are likely to oppose the initiative or may be relatively easy to convince, PTA's, library associations, tenants associations, environmental groups, and public employees unions are probably the best bet. Voluntary agencies, such as the United Way and its counstituent [sic] groups, are also likely candidates.... Exhibit 1, Attachment 2, page 2.

On page 3 of that same memorandum, Mr. Rader stated:

> Local and state public officials should also be contacted...they should be asked to assist in providing information and in organizing their supporters to participate in the "no" campaign. Access to fundraising lists would obviously be helpful, if at all possible. On the other hand, an elder statesman who commands broad respect--if you can discover one--should be lobbied to play an active part.

Establishing contact with the above-listed groups and lobbying public officials cannot be described as legal advice and representation as an attorney.

Thus, I conclude that the Western Center violated Section 1006(d)(4).

IV.

Western Center also violated Sections 1007(a)(5) and 1007(a)(6) of the Act. The former section prohibits using Corporation funds, directly or indirectly, to influence any State proposals by initiative petition except where representation by an employee is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities.

The discussion in Paragraph III above is equally applicable to these provisions. The organization and oversight of a statewide campaign to defeat a ballot initiative are not "necessary to the legal advice and representation" of clients. Likewise, activities of the coordinators for the Western Center, by definition, are not necessary to legal advice since those activities involved media development, voter registration activities, networking and lobbying.

In the Recommended Decision, the Hearing Officer found that Western Center employees did not tell people how to vote, did not register voters, did not organize voter registration, and did not transport voters to the polls. Finding of Fact 9. However, that does not mean there was compliance with Section 1007(a)(6). That section requires that all attorneys engaged in legal assistance refrain from "any voter registration activity (other than legal advice and representation)". By informing groups how to get space for registration activities and how to secure materials, they were not giving legal advice and, therefore, were engaged in prohibitory acts under Section 1007(a)(6).

V.

Western Center maintains that even if it violated the law, L.S.C. was informed of the activity at all times, approved it, encouraged it, and applauded it when it was completed. Thus, the argument continues, L.S.C. should not now be permitted to deny refunding to Western Center. The Hearing Officer agreed with that argument, but I find it unpersuasive for several reasons. The purpose of the Special Needs Grant as stated in the grant application was to make effective the efforts of local legal services programs to assist their clients regarding Proposition 9 on the June 3, 1980 California ballot by supplying direct, "hands-on" technical assistance. Exhibit 1, Attachment 4. This does not constitute disclosure of the activities that were ultimately undertaken by the Western Center.

The Budget submitted with the grant application provided for 3 3/5 "field coordinators", but, in fact, six were hired, including one media coordinator. Exhibit 1, Attachment 4; Exhibit 29.

Stephen Kostka of L.S.C.'s San Francisco Regional Office approved Western Center's grant application in a three paragraph memorandum dated February 26, 1980 to Hulett Askew, et al., stating merely that the grant was "to provide support services to local programs in their efforts to assist their clients regarding Proposition 9". Exhibit 7.

There are several after-the-fact assertions by former L.S.C. employees that after reading the transcript of the Denver meeting, they believe that what went on regarding Proposition 9 is what was contemplated in the grant application. See, for example, Exhibits 15, 16 and 17, the Declarations of Askew, Kostka, and Lewis, respectively. However, the only evidence in the record that anyone at L.S.C., contemporaneously with the grant, knew what was being done by Western Center is the statement by Joaquin Celaya at paragraph 10 of his Declaration that during the three months of the grant he made an effort to keep informed by talking to members of the Western Center's staff and that he did not discover any activity he considered inappropriate. Exhibit 45. Mr. Rader and Mr. Celaya stated that they discussed "the types of activities that the Western Center contemplated should the proposal be funded" in a telephone conference call with L.S.C.'s general counsel, Mario Lewis, Exhibit 49, paragraph 19; Exhibit 45, paragraph 9, but there is no elaboration of those activities. Mr. Lewis does not confirm those statements in his Declaration. Exhibit 17.

Mr. Rader stated in a memorandum to John McDermott dated November 19, 1979, that:

> ... the evil to be avoided is independent political action... As long as a program initiates action relative to a ballot measure only at the behest of an eligible client and is careful to assure that it continues to act only on behalf of that client, both the letter and spirit of the Act have been respected. Exhibit 1, Attachment 6.

When Mr. Lewis reviewed the grant application for legality, all he had before him was Rader's November 19 memorandum, Kostka's February 26 memorandum, and the grant application. Those documents do not disclose the activities conducted by Western Center as described by Mr. Rader months later at the Denver Regional meeting. Exhibit 1, Attachment 3.

The Act and L.S.C.'s regulations promulgated thereunder are clear that advocating or opposing ballot initiatives with L.S.C. funds, personnel or equipment is prohibited. Alan Rader had long known that to be the case. It was not until Proposition 9 came along, nearly six years after Congress passed the Act, that Mr. Rader changed his interpretation and concluded that any activity was permissible as long as done on behalf of an eligible client:

> The Legal Services Corporation Act does not absolutely prohibit involvement in advocating for or opposing ballot initiatives or referenda...
>
> We know that this conclusion regarding 2996b (d)(4) [sic][1006(d)(4)] is contrary to what many of us had long assumed. So we are enclosing a recently prepared memorandum (regarding legal services involvement in local ballot initiatives) which analyzes Section 2996e(d)(4) at some length and supports that conclusion. Exhibit 60. (Emphasis in original.)

When Brenda Riley, California State Chairperson of the National Clients Council, memoed all California State Project Directors that L.S.C. and the NCC were coordinating an effort to defeat Proposition 9, L.S.C.'s Joaquin Celaya wrote her that:

> ... [t]he fifth paragraph of the memo is inaccurate wherein you describe activities of L.S.C. grantees. The Legal Services Corporation Act prohibits use of L.S.C. funds to defeat the passage of ballot measures....

See Exhibits 4 and 5.

Finding of Fact 13 in the Recommended Decision states that Western Center sent L.S.C. the draft grant proposal and a final grant. Certain provisions of the draft proposal were deleted from the final and, therefore, L.S.C. could assume that those activities would not be undertaken. For example, on page 2 of the draft proposal (Exhibit 10) Western Center requests to "hire a 'media consultant', for three days a week for 15 weeks;..." That provision is not in the final proposal, Exhibit 1, Attachment 4, nor is the obligation for Western Center to pay him directly as provided on page 6 of the draft. Nevertheless, the media coordinator specifically named in the draft was, in fact, hired. Exhibit 10, page 4; Exhibit 31. In paragraph "I. Field Coordinators" the draft proposal says that those people will assist local programs and clients "to organize their efforts to inform local groups about Proposition 9", but in the final proposal, organizing their efforts is deleted from the activity.

The final proposal omits the following language from page 3 of the draft regarding the field coordinators:

> They will also serve as a liaison between local programs and their clients and the local campaigns of the statewide coalition, "Citizens For California", which has been formed to run a media campaign against Proposition 9. They also will be a conduit for information from that coalition.

Also on page 3 of the final proposal, the coordinators will spend time with client groups instead of just local programs as stated in the draft, and the process becomes an election instead of a campaign. On page 4 of the draft Western Center attorneys Rader and Hurwitz are responsible for the "overall coordination with Citizens For California", but that task was eliminated from the final proposal. Yet Rader's Declaration shows that he and Hurwitz maintained contact with that organization after February, 1980. Exhibit 49, paragraph 11.

Of course, the one page recitation of duties of the media coordinator detailed in the draft is stricken from the final proposal. Page 6 of the draft proposes that the travel budget allow Rader and Hurwitz to continue "to participate as members of the Citizens For California Steering Committee by attending their meetings in San Francisco", but the final does not. However, the number of trips for the Task Force Coordinators and their cost are identical in both budgets.

Thus, the activities described in the draft application were substantially altered in the final proposal, and L.S.C. was not informed of all the activities to be undertaken. In addition, Mr. Rader's speech in Boulder shows that most, if not all, of the "deleted" activities were actually performed.

VI.

Even though previous L.S.C. officials issued the grant to Western Center, L.S.C. is not now precluded from denying refunding to Western Center for violating the Act. See Strong v. County of Santa Cruz. (1975) 15 Cal. 3d 720; Joseph George, Distributor v. Department of Alcoholic Beverage Control (1957) 149 Cal. App. 2d. 702. Those officials could not "approve" violations of the law, and the fact that the illegal actions have recently been documented by the Comptroller General and L.S.C. compels this denial of refunding proceeding. In addition, it is clear that the L.S.C. officials who issued the grant were sympathetic to the type of activity described in the proposal. Attached as Exhibit A to Western Center's Post Hearing Brief is a portion of an Opinion of the Comptroller General of the United States dated May 1, 1981 (pages 1 and 12 only). That opinion may be found at 60 Comp. Gen. 423 (1981).

The omitted pages are quite descriptive of certain positions of the officials who issued this grant, including the President and the General Counsel. See pages 8 through 11 wherein the Comptroller General discloses that L.S.C. broadly construed the exception in 42 U.S.C. Section 2996e(c)(2) to allow grass roots lobbying; erroneously construed the exception in 42 U.S.C. Section 2996f(a)(5)(B)(ii) to permit recipients to expend appropriated funds to solicit others to contact their congressmen in connection with legislation affecting the recipient or the Corporation, and then promulgated regulations in 45 CFR Section 1612.4 that implement its erroneous interpretation of this statutory provision; erroneously determined that Section 607(a) of the Treasury, Postal Service, and General Government Appropriation Act, was not applicable to L.S.C.'s appropriations, a position which:

> ...led the Congress to enact a provision similar to 607(a), but expanded to cover State legislatures as well as the Congress, as a proviso to fiscal year 1979 appropriations provided for L.S.C. in the Department of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1979 (Pub. L. 95-431, October 10, 1978, 92 Stat. 1021). This proviso, known as the Moorhead Amendment, reads as follows:
>
> > * * * Provided, No part of this appropriation shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress or any State legislature.
>
> The Moorhead amendment has been applicable to the Corporation's appropriations each year since it was first introduced and enacted in 1978. Under this restriction, appropriated funds may not be used by recipients to appeal to members of the public to urge their elected representatives to support or defeat legislation pending in the Congress or in any State legislature. L.S.C. has also failed to implement this restriction.

Opinion, page 11. See copy attached as Appendix A.

Thus, the fact that former L.S.C. officials issued this Special Needs Grant to Western Center not only has no legal significance, it has no practical significance since those officials repeatedly failed to enforce statutory restrictions, and in fact ignored those restrictions. The Comptroller General concluded that by conducting the training event in Boulder which revealed these illegal activities by Western Center, L.S.C. violated 42 U.S.C. § 2996f(b)(6). Exhibit 1, Attachment 1.

VII.

Since the Hearing Officer recommended the continuation of funding for Western Center, he did not have to reach the issue Western Center raised regarding L.S.C.'s denial of refunding action being disproportionate to the offense charged. That issue must now be addressed.

Western Center argues that it has been doing exemplary work since 1980, and that denying refunding would not be warranted for a violation that occurred so long ago. Further, it argues, California programs and eligible clients would be harmed if it were denied refunding. L.S.C. counters by stating that the flagrant violation demands denying refunding. Further, the funds would be reprogramed to other grantees in California and the function of state support would continue.

This is not a denial of refunding proceeding under § 1007(a)(1) for failure to provide the highest quality of service and professional standards or under §1007(a)(3) for failure to provide economical and effective delivery of legal assistance. Thus, Western Center's argument has no relevance to the violations charged.

The Special Needs Grant was for $61,665, but that is not a true measure of the amount of money spent by Western Center and legal services programs in California to defeat Proposition 9. I doubt that that figure can ever be determined. However, Mr. Rader did indicate the scope of the activity, in his speech at the Denver Regional Project Directors meeting, Exhibit 1, Attachment 3, pp. 10-11:

> ... But first, and by far the most important, was local program commitment of resources. Without a local commitment, the commitment of resources by local programs, it is impossible to participate in the campaign... What we felt was essential was the programs make a commitment of staff time to work in their local community of their piece of the statewide effort... We felt that what programs believed had to happen, was that people had to be released from other obligations so that they could work on this effort... To give you one example, the Legal Aid Foundation of Los Angeles, which serves a section of the Los Angeles area, has some six neighborhood offices. What they decided was that each of those offices, one person could be released from 75% from his or her other obligations to work exclusively on Proposition 9 for three months. The feeling of that program was that there was no point in not doing that. That if they continued to do what they did before, and did not make

> an effort to try and defeat this proposition, all the litigation they were involved in ... and other political activities they were involved in ... would, if this passed, become worthless....

Mr. Rader pointed out that "[t]here were some 30 different Legal Services programs in California" and 150 different offices in the state. id. If each of them, under the guidance of Western Center's two task force coordinators, Rader and Hurwitz, followed the example of the Legal Aid Foundation of Los Angeles, then perhaps 150 people were released from "other obligations" for up to 75% of their time for up to three months. In other words, assuming a 2,000 hour work year, over 56,250 hours of L.S.C. paid attorney time may have been diverted from "other obligations" such as helping eligible clients with their legal problems. The statewide impact, obviously, is staggering.

As quoted above, Mr. Rader said, after-the-fact, in Boulder in 1981, that in order to be successful "it was essential" to have that "commitment of staff time". Since Proposition 9 was defeated, the commitment must have been made. As one of Western Center's statewide coordinators, he was in the best position to know that the commitment was made.

This flagrant defiance of the Act and the Regulations demands that the Western Center be denied refunding for 1984.

VIII.

Based upon all of the above and the full record in this matter, I conclude that the Recommended Decision is not supported by the evidence, has no justification under the Act, and must be reversed. This final decision is issued in Washington, D.C., this 4th day of April, 1984.

Donald P Bogard

Donald P. Bogard
President, Legal Services Corporation

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

B-202116 May 1, 1981

The Honorable F. James Sensenbrenner, Jr.
House of Representatives

Dear Mr. Sensenbrenner:

This is in response to your request that this Office investigate the possible misuse of appropriated funds by the Legal Services Corporation (LSC) for lobbying and political activities. In support of your allegations, you provided us with copies of a number of LSC memoranda covering the period from March 1980 until March 1981. After reviewing this material we have concluded that LSC has itself engaged and allowed its grant recipients to engage in lobbying activities prohibited by Federal law. However, we did not find that LSC had engaged in prohibited political activities.

The LSC memoranda indicate that LSC developed a detailed plan designed to urge members of the public interested in its legal assistance programs to contact Members of Congress and communicate their support for LSC reauthorization legislation and LSC appropriations measures being considered by the Congress. Over the years, LSC has encouraged groups interested in legal assistance at the local, regional, and state levels to support its legislative program. The organizations include such groups as LSC fund recipients; clients' councils; the National Legal Aid and Defense Association (NLADA), an organization of poverty lawyers; the National Organization of Legal Services Workers, an employee organization of legal assistance workers; migrant farm worker groups; bar associations; and similar groups. The effectiveness of the organization depends heavily on a State Coordinator to serve as link between LSC headquarters and the State organization. Normally, the State Coordinator is an employee or official of a recipient organization, as opposed to being an employee of the LSC itself. Officials of LSC's Office of Government Relations communicate frequently with State Coordinators and develop strategy about how local members of the State's Congressional delegation can best be approached, how the local support base can be increased, and how certain methods have proven successful in other states. In addition to serving as a communications link and coordinating the activities of local groups, State Coordinators are also responsible for reporting information back to LSC headquarters.

Early in 1980, LSC formed a coalition with the Project Advisory Group (PAG), a national organization of legal services programs, to direct a lobbying campaign in support of LSC reauthorization and appropriation legislation being considered by the Congress. In April 1980, Dan J. Bradley, President, LSC, and Charles H. Dorsey, Chairperson, PAG, sent a joint letter to Legal Services Project Directors, the heads of recipient organizations, initiating the lobbying efforts as follows:

"The Legal Services Corporation and the Project Advisory Group are engaged in a joint effort to protect the interests of legal services programs and clients in current Congressional consideration of the Legal Services Corporation Act and appropriations for fiscal year 1981. We are sending this letter to bring you up to date on this pending legislation and to inform you particularly of the serious efforts in Congress to impose further restrictions on legal services work and to limit our appropriation.

"On the issue of funding, a major threat is posed by the general budget-cutting pressures on Congress and the Administration. Even strong supporters of legal services have agreed to a balanced budget in 1981. This means that both the House and Senate Budget Committees are looking more critically at funding for legal services than ever before, and could restrict the Appropriations Committees' ability to adequately fund the program for next year. You will recall that the Corporation requested $353 million for 1981. PAG is urging $403 million. The White House is supporting $321 million. Some members of the House Budget Committee proposed termination of legal services. That was not seriously debated, but a subsequent effort to reduce funds to $278 million lost narrowly by a vote of 11 to 14.

"At the time of this writing, resolutions from both the House and Senate Budget Committees would permit appropriations of as much as $321 million. It is certain, however, that further efforts to cut the budget will be made on the floor of both the House and the Senate. Such proposed cuts could be specific to legal services or could be across-the-board reductions for all spending. The budget resolutions will be debated on the floor in late April or early May.

"The House and Senate Appropriations Committees will set the actual 1981 appropriations figure for legal services once Congress has adopted the budget resolution setting the outer limits. Markup on appropriations bills will probably occur in mid to late May.

> "The House Judiciary Committee and the Senate Labor and Human Resources Committee are considering bills to extend the Legal Services Corporation Act. The leaders of both Committees want a simple extension of the law, with no amendments — a position supported by both the Corporation and PAG. The House Bill, H.R. 6386, is a three-year authorization. The Senate bill, S. 2337, is a two-year bill. Both have been reported from the appropriate subcommittee and will be considered by the respective full committees hopefully before the end of April.
>
> "We have clear indications that a number of crippling amendments will be proposed — either in full Committee or on the floor of the House and Senate. Among those now being discussed are further restrictions on legislative representation, representation in certain abortion cases, representation of aliens, and recovery of attorneys' fees. None of these are easy issues. All of them are important to effective legal services work. We must not underestimate the risk that such amendments present this year.
>
> "Both the Corporation and PAG have added temporary personnel in Washington to better assure that the interests of legal services programs and clients are heard as these issues are debated in the coming weeks and months. * * *"

On April 3, 1980, LSC sent out a packet of materials addressed to: "Persons Coordinating Congressional Relations" that included instructions on effective lobbying of members of Congress at the local level for LSC legislation. The materials provided were as follows:

> "1. A statement of 'what needs to be done' and 'what to send us.'
>
> "2. A Legislative update of April 3, 1980, from Anh Tu.
>
> "3. Fact sheets and background information on the LSC reauthorization and appropriation, including membership lists of the appropriate House and Senate Committees.
>
> "4. One page fact sheet/handouts on possible restrictive amendments.

"5. Examples of supportive Bar letters and resolutions.

"6. Examples of favorable editorials.

"7. Examples of supportive letters from public officials.

"8. A list of state coordinators for the legislative effort. (State coordinators will also receive materials excerpted from the Congressional Staff Directory, indicating the Washington and local office addresses and phone numbers, and the key staff of each member of their state's Congressional delegation.)

"NOTE: PLEASE be in touch with your state coordinator before initiating Congressional contacts, editorials, or support from other suggested sources so that efforts can be coordinated among the various legal service supporters in your state."

The "what needs to be done" brochure gives specific and detailed guidance to local lobbyists. The brochure reads as follows:

"1. Visiting Members of Congress. During the Congressional recess, April 4 - 14, many members of Congress will be in their districts and can be approached by constituents supportive of legal services. For example, visits on behalf of legal services might be made by delegations of bar and law school leaders, public officials prominent figures in the party of the member, heads of major contributing organizations (e.g. labor unions), heads of broad-based constituent organizations (e.g. council of churches, League of Women Voters, Common Cause) and individual compaign contributors.

"NOTE: It is important to consider which of the above will be more influential with respect to a given member of Congress. Many members will want to hear from legal services staff themselves, but in most cases, it is better to rely on your supporters in the bar and other constituent groups to make Congressional contacts. (INSTRUCTIONS attached)

"2. Securing Local and State Bar Support. Supportive resolutions of local and state bar association and contacts by bar leaders with members of Congress are effective means of indicating concern to Congress.

"3. Obtaining Supportive Editorials. Seek editorial support in local papers.

"4. Alerting Constituents. Many Congressional constituents will be concerned about legal services if they are alerted to the problems we face. These include: local and state labor organizations; businesses and business organizations; church groups including local council of churches or statewide conferences, such as the statewide Catholic conference which exists in most states; broad-based constituent organizations (such as the League of Women Voters, Common Cause); civil rights organizations; anti-hunger coalitions; social service organizations (most states have some organization involved in the delivery of human resources); and individual campaign contributors.

"Also, client and poor people's organizations, such as the National Clients Council chapters, block-clubs, community economic development corporations, should be informed.

"5. Alerting Public Officials. State legislators, governors local legislators, and prominent individuals in the political party of the Representative or Senator may be concerned about legal services if they are alerted to the problems our clients will face if LSC's budget is cut or our services are restricted.

"6. Informing Us of Problems. Finally, it is important to determine if members of Congress or their staff have heard allegations of wrongdoing by a legal services program, and promptly provide a memorandum of fact to us along with as much supporting evidence as possible."

LSC also instructed local lobbyists in the "what to send us" brochure that they were responsible for providing LSC with after-action reports of their lobbying efforts. The data desired were as follows:

> "Please provide State Coordinators and the LSC Office of Government Relations with all actual products of your efforts, including editorials, communications by individuals and organizations, and other information.
>
> "Specifically, with regard to all House and Senate contacts please provide us with a report of:
>
> "(1) the member of Congress (and staff) contacted,
>
> "(2) persons (and their positions) making the contacts,
>
> "(3) the Member's (and staff's) attitude toward
>
> "(a) Legal services in general, and
>
> "(b) any specific provisions of the legislation or amendments discussed, and
>
> "(4) materials or information we should deliver to the member's Washington office."

The packet contained instructions on the preparation which supporters of LSC legislation should make before visiting their Congressmen or Senators. Lobbyists were advised to familiarize themselves with the background of the Member and select highly respected persons from the district to accompany the visiting delegation. The delegation was to familiarize itself with LSC reauthorization and appropriation issues and emphasize the significance of these issues to the Member.

The packet also included background information on the LSC reauthorization and appropriation issues. This material urged support for H.R. 6386 without amendment in the House and S. 2337 as reported out of the Senate Subcommittee on Employment, Poverty and Migratory Labor. The background information also urged opposition to any amendment that would (1) restrict legislative representation, (2) restrict the ability of legal services programs to represent aliens, (3) restrict the right of a legal services program to receive court-awarded fees upon successful completion of litigation, (4) limit the right of employees of legal services programs to join labor unions, (5) limit legal services representation in abortion proceedings, or (6) require legal services attorneys to negotiate prior to the initiation of litigation.

The packet included several examples of support for LSC reauthorization and appropriations in the form of editorials, local and State bar association letters, and letters from public officials. It was pointed out that such items had been helpful in demonstrating to Members of Congress the support for LSC in the local area.

Similar packets were sent out from the LSC Office of Government Relations and PAG to State Coordinators about once each month. These subsequent packets contained specific guidance, depending on the then-current status of LSC legislation, as to the lobbying efforts that were needed at the local level.

There is little question that the communications set forth in detail above constitute "lobbying", as the term is used in the applicable restrictive legislation and construed in our decisions. "Lobbying" activities are prohibited by provisions of the Legal Services Corporation Act of 1974, as amended (42 U.S.C, § 2996 et seq.) and restrictions contained in various appropriation Acts applicable to Federal funds expended by the Corporation. (See later discussions of these statutes.)

Under the provisions of 42 U.S.C. § 2996e(c), the Corporation itself, as distinguished from recipients of funding through the Corporation, is prohibited from attempting to influence the passage or defeat of any legislation before the Congress, except that Corporation personnel

> "* * * may testify or make other appropriate communication (A) when formally requested to do so by a legislative body, a committee, or a member thereof or (B) in connection with legislation or appropriations directly affecting the activities of the Corporation." (Emphasis added.)

In construing the exception, we think the phrase "* * * testify or make other appropriate communication * * *" is significant. Clearly, Congress did not intend the statutory prohibition against lobbying to preclude Corporation personnel from testifying before that body nor do we think that the Congress meant to preclude the Corporation from providing to the Congress the kind of data that Executive agencies and Departments normally supply when requested to do so or when they desire to express their views on legislative proposals. In construing other statutory restrictions against lobbying by officials of Executive agencies and departments (for example, § 607 (a) of the Treasury, Postal Service, and General Government Appropriation Act, discussed infra), we have consistently recognized that these officials have a legitimate interest in communicating with the public and with legislators regarding their policies and activities. When their policies or activities are affected by pending or proposed legislation, discussion by officials of that policy or activity will necessarily, either explicitly or by implication, refer to such legislation and will presumably be either in support of or in opposition to it. Accordingly, we have always construed other anti-lobbying restrictions as permitting officials to express their views on pending or proposed legislation as it affects their policies and activities directly to Congress or to the public. 56 Comp. Gen. 889 (1977); B-128938 July 12, 1976.

On the other hand, we have construed these other statutory anti-lobbying restrictions as prohibiting agency and department officials from engaging in "grass roots" lobbying, involving appeals addressed to the public at large or to selected individuals suggesting that they contact their elected representatives and indicate their support of or opposition to legislation being considered by the Congress. 59 Comp. Gen. 115 (1979). In other words, direct communication of its views by Corporation personnel to Members or Committees of the Congress is permissible; drumming up support for the same purpose outside the Corporation is not.

Accordingly, we do not think that the efforts by Corporation officials or employees to appeal to members of the public or the legal assistance community to contact their elected representatives in the Congress on behalf of legislative positions of the Corporation constitute "other appropriate communication."

LSC has broadly construed the exception in 42 U.S.C. § 2996e(c)(2), which reads "* * * except that personnel of the Corporation may testify or make other appropriate communication * * * in connection with legislation or appropriations directly affecting the activities of the Corporation", contending that this exception authorizes Corporation personnel to engage in all activities necessary to influence legislation and appropriation measures that directly affect the Corporation, including grass roots lobbying activities. We are unaware of any support for such a broad construction in the legislative history of this provision or elsewhere.

Indeed, the Conference Report to accompany H.R. 7824, the Legal Services Corporation Act of 1974 (S. Rep. No. 93-845, 92d Cong., 2d Sess. 22), supports our construction of the exception. The report states:

> "Both the House bill and the Senate amendment prohibit the Corporation from undertaking to influence the passage or defeat of any legislation by the Congress or by any State or local legislative body. The Senate amendment allowed the Corporation to testify and make appropriate comment in connection with legislation or appropriations directly affecting the activity of the Corporation. The House bill contained no comparable provision. The House recedes." (Emphasis added.)

As can be seen from the Conference Report, the exception was understood to allow only testimony and appropriate comment on legislation affecting the Corporation, which is consistent with our construction.

With regard to the use of funds by recipients of LSC assistance, under the provisions of 42 U.S.C. § 2996f(a)(5), the Corporation is charged with the responsibility of insuring that recipients do not use appropriated funds to influence the passage or defeat of legislation pending before the Congress except when representing a client or when:

> "(B) a governmental agency, legislative body, a committee, or a member thereof
>
> "(i) requests personnel of the recipient to testify, draft, or review measures or to make representations to such agency, body, committee, or member, or
>
> "(ii) is considering a measure directly affecting the activities under this title of the recipient or the Corporation."

The exception in 42 U.S.C. § 2996f(a)(5)(B)(ii), quoted above, should be given the same construction as the similar provision applicable to LSC personnel in 42 U.S.C. § 2996e(c)(2)(B), discussed above. That is, it should be construed so as to preclude expenditures of appropriated funds by recipients for grass roots lobbying. Here again, the Corporation has erroneously construed this exception broadly to permit recipients to expend appropriated funds to solicit others to contact their congressmen in connection with legislation affecting the recipient or the Corporation. For the reasons outlined above, we believe the Corporation's construction is improper. LSC has, however, promulgated regulations in 45 CFR § 1612.4 that implement its erroneous interpretation of this statutory provision as follows:

> "(a) No funds made available to a recipient by the Corporation shall be used, directly or indirectly, to support activities intended to influence the issuance, amendment, or revocation of any executive or administrative order or regulation of a Federal, State or local agency, or to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative body or State proposals by initiative petition."

* * * * *

> "(3) An employee may engage in such activities if a government agency, legislative body, committee, or member thereof is considering a measure directly affecting the activities under the Act of the recipient or the Corporation."

As currently worded, these regulations authorize LSC fund recipients to expend appropriated funds for grass roots lobbying campaigns in support of legislation or appropriation measures that directly affect the activities of the recipient or the Corporation. In our opinion, to Representative Gilman, B-163762, November 24, 1980, (copy enclosed), we noted certain deficiencies in these regulations and wrote to the President of the Corporation recommending that he take appropriate action to amend the regulations to implement adequately the statutory restrictions on lobbying. The Corporation has not, however, acted on our recommendations.

In addition to the limitations on lobbying activities in the above cited statutory provisions, annual appropriation act restrictions have, throughout the existence of the legal assistance program, also curtailed such activities. Section 607(a) of the Treasury, Postal Service, and General Government Appropriation Act, the language of which has been included in the Act every year since 1972, provides as follows:

> "No part of any appropriation contained in this or any other Act, or of the funds available for expenditure by any corporation or agency, shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress." (Emphasis added)

We have construed section 607(a) as prohibiting the expenditure of Federal funds by Executive agencies and Government corporations for activities involving appeals addressed to members of the public suggesting that they contact Members of Congress and indicate support of or opposition to legislation pending before Congress, or that they urge their congressional representatives to vote in a particular manner. 56 Comp. Gen. 889, supra.

We understand from discussions with the LSC General Counsel that LSC does not consider the restriction against lobbying activities contained in § 607(a) to be applicable to its appropriations because, when § 607(a) was first enacted in 1972, the Legal Services Corporation Act of 1974 (42 U.S.C. § 2996 et seq.) had not been enacted into law. The fallacy in LSC's argument is that appropriation Acts are enacted annually and restrictions in them apply to the use of funds for the fiscal year for which the appropriation was made. An appropriation restriction may forbid the use of funds by an agency even for some activity authorized in its organic legislation. In such a case, the restriction takes precedence over the organic legislation; that is, the agency would have substantive authority to carry on a certain activity but would have no funds available to spend on it. Section 607(a) has been enacted in the same form each year since 1972 and is, by its terms, applicable to appropriations contained in all appropriation acts. The § 607(a) restriction against the use of Federal funds for lobbying has thus been applicable to each annual appropriation the LSC has received.

Apparently LSC's interpretation that § 607(a) was not applicable to its appropriations and aggressive legislative representation by program personnel at the State level led the Congress to enact a provision similar to § 607(a), but expanded to cover State legislatures as well as the Congress, as a proviso to fiscal year 1979 appropriations provided for LSC in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1979 (Pub. L. 95-431, October 10, 1978, 92 Stat. 1021). This proviso, known as the Moorhead Amendment, reads as follows:

> "* * * Provided, No part of this appropriation shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress or any State legislature."

The Moorhead amendment has been applicable to the Corporation's appropriations each year since it was first introduced and enacted in 1978. Under this restriction, appropriated funds may not be used by recipients to appeal to members of the public to urge their elected representatives to support or defeat legislation pending in the Congress or in any State legislature. LSC has also failed to implement this restriction.

In summary, through the use of recipient organizations and their contacts at the State and local level, LSC has developed an extensive lobbying campaign to support reauthorization legislation for the corporation and related appropriation measures being considered by the Congress. This activity violates the anti-lobbying statutory and appropriation restrictions described above.

Because LSC's regulations and current policies appear to authorize recipients to expend appropriated funds for prohibited lobbying activities in derogation of the above-cited restrictions, we do not think, as a practical matter, that the Government would be successful in attempting to recover the illegally expended sums from the recipients. Also, because we are not authorized to settle the accounts of the Corporation, we are unable to take exception to these illegal payments. We have, however, written the President of the Corporation informing him that we are advising both the Senate and House Appropriations and Judiciary Committees that the Corporation is expending Federal funds in violation of the above cited statutory and appropriations restrictions. In that same letter, we reiterate the recommendations in our opinion, B-163762, November 24, 1980.

We also reviewed the memoranda that you gave us for possible violations of restrictions on political activities contained in 42 U.S.C. § 2996e(e) and 42 U.S.C. § 2996f(a) by employees of either the Corporation or recipients. These restrictions are primarily designed to prohibit the Corporation or its recipients from assisting a political party or a candidate for public office. Our review did not uncover any evidence of such violations.

We trust this opinion is responsive to your request. If we can be of further assistance, please call on us.

Sincerely yours,

Milton J. Socolar

Acting Comptroller General
of the United States

Enclosure

JUDGE RALPH M. DRUMMOND (Retired)
P. O. Box 575
Pauma Valley, CA 92061

Telephone: (619) 742-1450

In re:

IN THE MATTER OF REVIEW OF THE PRELIMINARY DETERMINATION BY LEGAL SERVICES CORPORATION TO DENY REFUNDING TO THE WESTERN CENTER ON LAW AND POVERTY, INC.

RECOMMENDED DECISION

The above entitled matter was heard by the Honorable Ralph M. Drummond on February 29, 1984. Oral and documentary evidence was introduced and the cause argued and submitted for decision on that date. The court, having considered the evidence and heard the arguments of counsel and read and considered their posthearing briefs and being fully advised of the issues makes the following findings of fact and conclusions of law.

Findings of Fact.

1. The Legal Services Corporation (hereinafter "LSC") advised the Western Center on Law and Poverty, Inc., (hereinafter "Western Center") by letter of January 4, 1984, that LSC had

made a preliminary determination to deny refunding to the Western Center for 1984 on the ground that the Western Center failed to comply with the Legal Services Corporation Act (hereinafter the "Act") and Regulations thereunder (Exhibit 1).

2. The Western Center through its counsel made a written request for review of the preliminary determination.

3. The president of LSC, Donald Bogard, appointed the Honorable Ralph Drummond as presiding officer to conduct a hearing for review of the preliminary determination of denial of refunding and advised the Western Center of the name of the presiding officer, the name of the attorney representing LSC, the proposed hearing date and the time and place of the hearing.

4. The attorney for the Western Center, Max Gillman of Latham & Watkins and the attorney representing LSC, John E. Mueller of Nielsen, Hodgson, Parrinello & Mueller met with Judge Drummond on February 27, 1984, at a prehearing conference in the Latham & Watkins Newport Beach offices. At that time it was stipulated that the denial of refunding hearing would be held in Latham & Watkins offices in Newport Beach, California on February 29, 1984, at 9:30 A.M. Said hearing, open to the public, was held on that date.

5. The Western Center is a specialized law unit providing representation and assistance in litigation and legislative advocacy to California legal services programs and clients. It has been funded in part on an annual basis by LSC (Exhibit 11).

6. The Western Center submitted a proposal for a grant application dated February 20, 1980, to LSC seeking approximately $61,000 in funds for Proposition 9 related activities (Exhibit 1-

2). That grant application sought funds to provide information to clients, to hire coordinators to provide in "technical assistance" to clients, and for travel and "extraordinary printing, travel and mailing costs" (Exhibit 1-4, pp. 1-4). While the language is somewhat broad and in some respects ambiguous, the grant application does not propose utilization of funds for purely political activities nor does it seek funds to conduct a state wide political campaign against Proposition 9 (Exhibit 1-4).

7. LSC awarded to the Western Center a special needs grant on March 12, 1980, in response to the aforementioned February 20, 1980, grant application (Exhibit 1-5).

8. Between late 1979 and June 1980, the Western Center on Law and Poverty, Inc., (Western Center), provided legal assistance to eligible clients of the Center who were opposed to Proposition 9 on the June 1980 ballot in California, and supported neighborhood legal services programs representing eligible clients on the same matter.

9. Western Center's work on behalf of clients opposed to Proposition 9 consisted primarily of gathering information on the potential effects of Proposition 9 and explaining the information to clients and local legal services attorneys.

(a) Western Center employees did not tell people how to vote on Proposition 9 or express opposition of the Western Center to the Proposition.

(b) Western Center employees gave advice and representation to clients who sought to register voters, but Western Center employees did not themselves register voters or organize voter registration.

(c) Western Center employees did not transport voters to the polls or organize the transportation of voters to the polls.

(d) Western Center employees did not aid any partisan political association or any campaign for public office in the course of providing legal assistance to eligible clients who were opposed to Proposition 9.

10. The Legal Services Corporation (LSC), with full knowledge of what Western Center proposed to do on behalf of clients who opposed Proposition 9, encouraged and approved in advance that work.

11. The Legal Services Corporation, through its General Counsel, with full knowledge of what Western Center proposed to do on behalf of clients who opposed Proposition 9, gave its legal opinion to Western Center that such work was permissible under the Legal Services Corporation Act.

12. The Legal Services Corporation, with full knowledge of what Western Center proposed to do on behalf of clients who opposed Proposition 9, made a special grant to Western Center of $61,664 to pay for that work.

13. The Legal Services Corporation knew what the Western Center proposed to do on behalf of clients who opposed Proposition 9 because Western Center sent to the Legal Services Corporation all task force memoranda (Ex. 1, Att. 2 and Ex. 60), its draft grant proposal (Ex. 10), and a final grant .

14. The Legal Services Corporation knew what Western Center was doing on behalf of clients who opposed Proposition 9 after it made the special grant to Western Center and gave its legal opinion that the proposed activities were in compliance with

law because LSC personnel attended meetings of Western Center employees and legal aid employees assisting clients opposed to Proposition 9, and because LSC employees and Western Center employees working on behalf of clients in opposition to Proposition 9 kept in contact with each other by phone and discussed Western Center's work during the relevant period.

15. After Western Center had completed its work on behalf of clients who were opposed to Proposition 9 and in support of legal aid programs on behalf of their clients, a Western Center employee, Alan Rader, spoke about the Western Center's Proposition 9 activities to LSC officials during two speeches, one in Los Angeles in 1980, and one in Denver in 1981. LSC officials, with full knowledge of the work that Western Center had done, and after hearing Mr. Rader's speech, congratulated Mr. Rader and ratified the work of the Center.

16. The activities described by Alan Rader in his speech in Denver in January, 1981, (Ex. 1, Att.3), were among the activities which were approved in advance by the Legal Services Corporation and were the activities which the Corporation, through its General Counsel, had told Western Center were legal, in the General Counsel's opinion, under the LSC Act.

17. At no time before January 4, 1984, when LSC mailed to Western Center notice of its preliminary determination that the Center should be denied funding, did LSC notify Western Center that it believed that any activity undertaken by Western Center during 1979, or 1980, was illegal.

18. At no time has the Legal Services Corporation offered to Western Center notice and an opportunity to informally resolve

with LSC or to cure any purported illegality in its activities during 1979 or 1980.

19. The Legal Services Corporation has evaluated the work of the Western Center annually since 1980, and has correctly concluded that the Center is a superior program which provides high quality services to eligible clients and to legal services programs through California. Thus Western Center has already cured any violation which might have occurred in 1979 or 1980.

20. The Western Center is a superior legal services program with a statewide reputation for excellence.

21. Denial of refunding to Western Center would irreparably injure the legal aid programs and clients who depend on Western Center for assistance. Western Center provides a unique statewide perspective, continuity, very high wuality services, and substantial expertise on poverty law issues that could not be replaced if the Center's funds were distributed to other legal services programs in California.

22. Because many of Western Center's cases are complex and time-consuming, and could not be handled by neighborhood legal services programs or the private bar, Western Center clients would be adversely affected if the Center were denied refunding.

23. Based on all of the foregoing facts, I further find that LSC's preliminary determination to deny refunding to, or to terminate the funding of, the Western Center is substantially without merit.

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Conclusions of Law.

1. I need not reach the issue of whether the Western Center violated the Legal Services Corporation Act, because I conclude that:

(a) The Legal Services Corporation regulations (45 C.F.R. Parts 1606 and 1625) permit denial of refunding or termination of funding only in the case of a clear violation of law by a recipient;

(b) The Western Center's activities in 1979-80 on behalf of clients opposed to Proposition 9 did not constitute a clear violation of Sections 1006 or 1007 of the Legal Services Corporation Act.

(c) Sections 1006 and 1007 of the Act are complex, and Western Center reasonably and in good faith relied on the LSC's interpretation and opinion that the Center's activities were in conformance with those sections;

(d) Therefore, the Legal Services Corporation may not deny refunding to the Western Center or terminate its grant.

2. The LSC may not deny refunding to, or terminate the funding of, Western Center because the penalty is disproportionate to the offenses charged in light of the Western Center's importance to the legal services community and the lack of any continuing violations of law on the part of the Western Center for the past four years.

3. Based on all of the foregoing conclusions, I further conclude that LSC's preliminary determination to deny refunding to, or to terminate the funding of, the Western Center is substantially without merit.

DATED: MARCH 12, 1984.

Ralph M. Drummond

RALPH M. DRUMMOND

PROOF OF SERVICE BY MAIL

(1013a, 2015.5 C.C.P.)

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

I am a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is: P. O. Box 575, Pauma Valley, CA 92061

On March 12, 1984 I served the within

Recommended Decision

on the Legal Services Corporation and Western Center on Law & Poverty

in said action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California, addressed as follows:

Donald P. Bogard, President
Legal Services Corporation
733 Fifteenth Street, N.W.
Washington, D. C. 20005

Neilsen, Hodgson, Parrinello & Mueller
The Hartford Building
650 California Street, Suite 2650
San Francisco, CA 94108

Latham & Watkins
Max L. Gillam
Nancy Scheurwater
555 South Flower Street
Suite 4600
Los Angeles, CA 90071

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 1984 at Pauma Valley, California.

Ralph W. Drummond
Signature

The CHAIRMAN. As I understand, in accordance with established procedures, Western Center was provided a hearing before a hearing examiner to contest your preliminary decision to deny refunding, and the hearing examiner, Judge Drummond, was appointed by you. Am I correct so far?

Mr. BOGARD. That's correct.

The CHAIRMAN. OK. Judge Drummond found that the Western Center had not violated the congressional prohibitions governing lobbying, but in your decision, Mr. Bogard, you held that Western Center had violated section 1006(d)(4) of the Legal Services Corporation Act, which prohibits, among other things, Legal Services recipients from using Federal funds to advocate or oppose ballot measures.

Now, would you please explain the basis of your finding with regard to that particular section 1006(d)(4)?

Mr. BOGARD. Well, Mr. Chairman, I reviewed the entire record that was presented before Judge Drummond, read the transcripts, examined all the exhibits, and read all the papers that had been filed by the lawyers for both sides. I also viewed the video tape which has been discussed earlier, for the first time, and saw the report by Mr. Rader, who is an employee of the Western Center, on the activities that had been carried out. And I read the transcript of that, which was also an exhibit to the hearing; in fact, I reread the transcript several times, and to me it was just abundantly clear that Western Center had violated the law.

The law, in my opinion, is very clear. It says that no Corporation funds can be used to oppose a ballot initiative or to favor a ballot initiative except in a very narrow restriction, where an attorney is providing legal advice and representation as an attorney. And to me, the discussion that Mr. Rader presented on the tape showed very clearly that the activities that Western Center were engaged in were not activities which constituted legal advice and representation as an attorney. And therefore I thought there was no alternative but to reverse that decision.

The CHAIRMAN. The hearing officer also agreed with the argument raised by Western Center that, even if it violated the law, the Corporation knew of its actions, approved them, funded them, and applauded them when it was done. Consequently, the Corporation could not deny refunding to Western Center for activities which it had previously sanctioned.

Personally, I find that argument pretty questionable not only from a legal basis but from the standpoint of the seeming collective disregard for obeying congressional prohibitions. Would you please explain the basis upon which you rejected that particular argument?

Mr. BOGARD. Certainly. I went through the draft proposal which was submitted for the grant that the Corporation issued back in 1980, and then analyzed it compared to the actual final proposal that was submitted. The activities that were disclosed that Western Center was going to be involved in were very general and certainly did not show what was done compared to what Mr. Rader said in his tape and in the transcript of that tape. I think it was clear that what was disclosed was not the same activity.

I also felt that the Corporation obviously couldn't allow someone to violate the law and approve that, so there could not be any action that would say that that was a legal activity.

To me, it was equally clear that it was necessary that the Corporation try to make sure that what was done was what was reported on and what was allowed. It was certainly clear that that was not the case; the Corporation was not informed along the way of what was going on, and after the fact, the Corporation did apparently applaud what went on, but that nevertheless does not make it a legal activity. In my opinion, the disregard of the law was something that we had to enforce.

The **CHAIRMAN**. I see.

What happens now to the moneys that were earmarked for Western Center for 1984, as well as any fund balances that if had left over or had accumulated during past years?

Mr. **BOGARD**. Well, under the current structure what we have been doing is providing Western Center funding on a month-to-month basis. They have received funding through April. We had committed to continuing their funding for 1 month following a final decision, so Western Center will receive funding for May. At that point they can certainly apply, under our regulations, for termination funding to close out pending matters to make sure that cases are transferred, and things like that.

The **CHAIRMAN**. What happens to all the records that they have accumulated?

Mr. **BOGARD**. The records would be returnable to the Corporation for examination, I believe.

The **CHAIRMAN**. You are going to ask for them?

Mr. **BOGARD**. We would like to look at them; yes.

The **CHAIRMAN**. Well, you can demand them, can't you?

Mr. **BOGARD**. Yes, sir.

The **CHAIRMAN**. Will you?

Mr. **BOGARD**. Except for clients' files and matters like that.

The **CHAIRMAN**. I understand.

I personally agree with your decision to defund Western Center. The laissez faire attitude taken in the past by Corporation officials, when confronted with evidence of illegal lobbying, did little to encourage compliance with congressional mandates. I hope your decision sends a different message out there.

Let me ask you one final questions about Western Center. How much has it cost the Corporation to date to fund or to process this denial of refunding?

Mr. **BOGARD**. We don't have an actual figure on that yet. We're in the process of trying to generate that information, and I'd be glad to submit it to the committee as soon as it's developed. We know in the past that it has cost an average of about $100,000 to try to defund an entity. Hopefully, the streamlined procedures that the Senate and the House gave us last year will make that not so expensive. I have heard that the amount on this particular case was much higher than that, but I don't really have hard figures on it.

The **CHAIRMAN**. This appears like a good time for me to break and turn to Senator Denton.

Senator **Denton**. Thank you, Mr. Chairman. I only have a few, and then I will submit the rest in writing.

Mr. Bogard, I'm concerned too about the funding level in view of the disparities which you noted in your prepared statement which, as far as I can tell, are essentially locked in by the Weicker amendment, which is still in effect.

Mr. **Bogard**. Correct.

Senator **Denton**. You have stated that you did defund one organization, and I understand with—and this may be incorrect—flagrant violations. You are able to defund, but not reduce the funding of a grantee; is that correct?

Mr. **Bogard**. Yes. We feel that we are able to enforce all provisions of the act, and if there are violations of the law, the defunding procedures would be enforceable.

Senator **Denton**. But you would have to defund all the way? You couldn't punitively—you know, cut it in half and say, "Now, you guys be good boys, or else" or something like that?

Mr. **Bogard**. Without some sort of requirement due to reduced funding across the board for all programs; that's correct.

Senator **Denton**. With the present restriction of the Weicker amendment, how long and lengthy a process is it to establish the justification for defunding a grantee? Is it a tremendous difficulty or not?

Mr. **Bogard**. Well, the process itself is shortened. It's now supposed to be completed within 90 days; but in order to gather the information, it is quite extensive. We started looking at the Western Center, for example, as a result of the GAO report back in the fall of 1983, and made the decision in early January, along with three other cases at the same time. So it is a tremendously involved factfinding investigation. Mr. Opsut's group is primarily responsible for developing the information.

Senator **Denton**. And only with the elimination or a change to the Weicker amendment can we eliminate the disparities which you highlighted in your testimony?

Mr. **Bogard**. That's correct. I think it's absolutely essential that we be allowed to make the independent decisions that are necessary to equalize the funding and to make it more adequate for all groups.

Senator **Denton**. Mr. Bogard, you've heard and are familiar with the testimony of GAO. You have a spectrum of awareness yourself regarding some of the survival activities which were looked into by the GAO. Could you provide the committee with any State survival plans beyond those reported on to us by GAO, which you might have in your files? Do you have such State survival plans in addition to those we've heard about?

Mr. **Bogard**. Mr. Norell has been involved in some of this activity; if I could let him respond to that, Senator.

Mr. **Norell**. Yes, Senator. We, in cooperating with the General Accounting Office, have made a rather complete search of files that were secured as a result of this committee's concern last year from the regional offices. The files in some regions are very complete in terms of survival plans, and we will provide them.

Senator **Denton**. You will provide them, and we will include them in the record, Mr. Chairman?

The **Chairman**. Without objection.

Senator **Denton**. Mr. Bogard, I have here a copy of a handwritten memorandum on the stationery of an organization called Legal Services of North Central Alabama, Inc. This corporation is a grantee of the Legal Services Corporation. It's a memo to Larry from Kristi Lamb, it looks like, L-a-m-b—it might not be correct—dated April 29, 1981, subject: Survival Coalition. It says, "We continue to get letters of support and more resolutions. Sometimes I wonder if it does any good. We in Alabama are also forming a survival coalition of all agencies, organizations, and interested persons. We have a public hearing set up for May 9. All congressional members have been invited. Our Lt. Gov. George McMillan"—that was at the time—"sent a letter to Heflin and Denton supporting Legal Services Corporation."

The point is that a grantee of Legal Services Corporation is forming a survival coalition, which he has in capital letters in his writing.

I also have a memorandum produced by the same Survival Corporation referenced, after it was formed, listing the Alabama Legal Services Coalition as a member, which is the statement—the object—of this memorandum.

Now, among the quotations here, you can derive—I will ask that the memorandum and this statement by the Survival Coalition be included in the record, Mr. Chairman.

The **Chairman**. Without objection, so ordered.

[The material referred to appears on pp. 59-60.]

Senator **Denton**. We have a vitriolic, anti-Reagan political statement which also announces the meeting of the coalition, and that's the way I describe this Survival Coalition memorandum, is vitriolic and anti-Reagan political statement—it announces a meeting for May 4, 1981, and exhorts the recipients of this announcement to, quote, "launch a massive campaign to educate, mobilize, organize, and coordinate actions along a single line to"—quote within quotes—"to 'save it all'." End of quote. Listed among the groups in the coalition is the Alabama Legal Services Coalition. There are a number of others in here which will be evident in the record, but they are not at all associated with legal services to the poor. They are of the nature of being political and antiadministration type organizations.

This is all the documentation that I have, Mr. Bogard, on this. That is, I have a Legal Services of North Central Alabama, Inc., memo announcing the formation of a Survival Coalition; then I have the Survival Coalition listing them, a grantee of Legal Services Corporation, as a member of this Survival Coalition. And it does contain the kind of garbage that we have come across in our previous hearings on this.

Now, I'd like to know if you have any additional information or can find any additional information at this time about Legal Services Corporation of Alabama's involvement in this coalition, and if you could provide me with any additional information that is available on the survival activities in Alabama?

Mr. **Bogard**. I'd also ask Mr. Norell to respond to that.

Mr. **Norell**. Yes, sir, we'll continue to look for materials on that.

I might say that the memorandum that you're speaking of, the handwritten memo, was to Larry Hamblen, who was the survival coordinator in the Atlanta regional office.

Senator **Denton**. Larry Cameron?

Mr. **Norell**. Hamblen, H-a-m-b-l-e-n.

Senator **Denton**. Thank you.

I only have two more questions. Very brief, Mr. Chairman.

Mr. Bogard, the GAO we just received focused primarily on 1981 survival activities of the Corporation and its grantees. Have you uncovered evidence that similar activity continued beyond 1981 and, if so, how was it funded and could you give us some examples?

Mr. **Bogard**. Mr. Norell again, please.

Mr. **Norell**. Yes, sir. In 1982, there were a number of conferences which were held around the country in various regions that had to do with the Reagan budget cuts. These conferences were not necessarily directed to Legal Services' survival; they were directed to the survival of entitlement programs.

In terms of funding, some of these are very difficult to determine. The money did not necessarily come directly from the Legal Services Corporation, but it came from some subgrantee.

Senator **Denton**. Have you any other examples you could provide us separately for the record?

Mr. **Norell**. Yes, sir, we can.

Senator **Denton**. Will you do so, please?

Mr. **Norell**. Indeed.

Senator **Denton**. The last question before the ones I will submit in writing, Mr. Chairman.

Mr. Bogard, much attention has been focused on the IOLTA [Interest On Legal Trust Accounts] Program, run in several States. Under these programs, the interest from small amounts of money held in trust briefly for clients is pooled and distributed to legal services programs throughout the State. What restrictions are placed on the use of this money by LSC grantees, and is the money under the same restrictions as LSC funds?

Mr. **Bogard**. It would be under the same restrictions. We don't impose any restrictions ourselves; we are not involved in the generation of the income at all. It is presented to the programs or other providers of legal services in the State by an independent entity, a foundation, a bar foundation or something like that; so the money would be not within our control. However, our statute would require that funding received by the local programs be spent under circumstances allowable by our act.

Senator **Denton**. Well, I thank you and congratulate you for, in your appropriations request, holding administrative costs essentially to a constant with the proviso that you would be able to grant some raises, and so on.

I support the idea of legal services to the poor. I would support increased funding were it funding of the sort that could reach the poor. The only two anxieties that I have being that there are disparities State to State, and there are still some organizations out there which, from their previous records, cannot be expected to perform as well as a spectrum of organizations which you could supervise and have under your grant system, were it not for the Weicker amendment. Those are the only two problems I have so I would appreciate any private—I mean, personal—advice on your part in the future regarding my outlook on it because I want to have one that is accurate and does provide for maximum legal services to those in this country who need it. And I recognize there is quite a need, but I don't see taxpayers and an administration funding political activities, lobbying activities forbidden by law which have happened so often in the past that it's my understanding that that's why the administration went for—if you can't beat it, if you can't correct it, then kill it. And then start over again. That's my understanding why the Reagan administration went that way in the first place, they hoped they could set something else up because this one seemed incorrigible, and I just don't know where we are at this point now in incorrigibility for this program. I consider you an objective and well-chosen leader, and I consider my chairman an extremely thorough and competent investigator, as well as excellent chairman, and I solicit your advice, too, on that, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Denton. I appreciate your being here, very much.

Mr. Bogard, let me just turn to a series of grants made in late 1981 to the National Legal Aid and Defenders' Association, and let me see if we can determine the status of those grants.

In past hearings the committee learned that in August 1981, Clint Lyons, then the Director of the Office of Field Services, directed his deputy, Hewlett Askew, to solicit a grant proposal from the National Legal Aid and Defenders' Association to provide technical assistance to programs in the future. Such a proposal was submitted and on September 28, 1981, NLADA received a one-time grant for $1.23 million for technical assistance, a management and leadership project, standards development, and the preparation of a library manual. Later that year NLADA received additional one-time grant money so that by the end of 1981, NLADA had received a total of $2.2 million in grants from the Corporation.

Now, turning first to the management project, which involved some $1.2 million. What service was provided to the Corporation or its recipients as a result of this grant?

Mr. BOGARD. We've been trying to find that out, Senator.

The CHAIRMAN. You don't know?

Mr. BOGARD. No, sir; we don't.

The CHAIRMAN. Do you have any evidence at all?

Mr. BOGARD. We have had two very brief reports filed, an annual report that doesn't really go into it, and we've been trying to monitor the program and try to find out exactly what services——

The CHAIRMAN. Is the money already spent?

Mr. BOGARD. We don't know that, either. We suspect——

The CHAIRMAN. Don't you have a right to find out about accounting?

Mr. BOGARD. Yes, sir. We have been attempting to get into that, to that situation——

The CHAIRMAN. Well, are you being deterred from getting into it?

Mr. BOGARD. The NLADA has thus far refused to allow us to monitor them. Mr. Potack has been involved in that, and I'm sure could explain the situation to you.

The CHAIRMAN. Let me just go through it, maybe a little more logically.

So you've attempted to send a monitoring team to NLADA to determine the status of the grant; is that right?

Mr. BOGARD. Yes. We started that back in January, I believe.

The CHAIRMAN. OK.

Mr. Potack, maybe you'd like to do this. Would you summarize for the committee your efforts to monitor this particular project?

Mr. POTACK. Thank you, Senator.

It began by a phone call on January 26, when I called Clint Lyons to inform him that I was responsible for monitoring the grants that you referred to. Mr. Lyons indicated that he wanted some type of formal notification from me before he would discuss monitoring.

The CHAIRMAN. Would you submit any and all correspondence pertaining to this whole matter so we can put it in the record?

Mr. POTACK. Yes.

[Material supplied for the record follows:]

LEGAL SERVICES CORPORATION
733 Fifteenth Street, N.W., Washington, D.C. 20005

Donald P. Bogard
President

Writer's Direct Telephone
(202) 272-4080

January 27, 1984

Clint Lyons, Executive Director
National Legal Aid and Defender Association
1625 K Street, N.W.
Eighth Floor
Washington, D.C. 20006

Dear Mr. Lyons:

I am hereby providing the formal communication you requested in our phone conversation yesterday regarding our intention to conduct a monitoring visit with respect to funds provided to your organization by the Corporation. You made it clear that the terms and conditions of any monitoring would not be discussed until you received this letter.

You have also indicated your understanding of the need to open grants to scrutiny and assured me that you would respond to this letter as soon as possible. I appreciate that. However, you also indicated that the NLADA is not a typical grantee and therefore you would not agree to any monitoring until the terms and conditions were negotiated. Moreover, you were not even sure a monitoring visit would be allowed, apparently in light of your concern that this evaluation might be conducted in bad faith.

Mr. Lyons, I assure you that we have no intention to conduct an unobjective evaluation in this matter. You indicated that you did not know me and I therefore suggest that you contact your predecessor, Howard Eisenberg, to find out more. Howard was perhaps the most effective State Public Defender Wisconsin ever had and I had several discussions with him both as a staff attorney for Wisconsin Indian Legal Services and as Executive Director of Wisconsin Judicare.

At the same time, I have every intention to do a thorough evaluation. We are talking about a lot of money. You took issue with my statement that "we" gave your organization a lot of money because you and other former LSC employees were the persons responsible for awarding these grants. You indicated that this would make it hard for a monitoring team to judge whether the money was spent as intended because your interpretation of quality legal services would include impact litigation and the team's might not.

These are not persuasive reasons why a monitoring visit should not take place. I have assured you that we intend to evaluate whether the expenditures were made consistent with the Act and the terms and conditions of the grant. We will do this objectively. You know as well as anyone that we have an obligation to conduct such an evaluation.

I must therefore insist that the visit take place in February and I sincerely expect your cooperation. Our contracts with other national programs provide for advance notice of fifteen working days. I therefore plan to conduct the visit the week of February 20th.

I trust that I will have your response in the very near future. I will be available to meet with you next week if you so desire. I would also appreciate an explanation at that time for the failure to provide the quarterly reports as described in the conditions of these grants.

Looking forward to your reply, I remain,

Sincerely yours,

Gene M. Potack
Manager
Substantive Research and Support Unit
Office of Field Services

GMP/js

REQUEST FOR MESSENGER SERVICE

DATE 1 / 27 / 84

NAME/DIVISION D. nc / [illegible] PHONE 272-4080

DATE AND TIME OF REQUEST 1/27 /

PICK UP:

[illegible] SHARON/RECEPT.
CONTACT PERSON
[illegible] / SC
NAME OF ORGANIZATION
733 15th ST NW / 7th FL.
ADDRESS (INCLUDE RM. NO.)
WASH DC

PICK-UP TIME

DELIVER TO:

Clint Lyons
CONTACT PERSON
NLDA
NAME OF ORGANIZATION
1625 K St N.W / 8th
ADDRESS (INCLUDE RM. NO.)
DC

PICK-UP TIME

OTHER INSTRUCTIONS:

NUMBER OF ITEMS:

☑ ENVELOPES 1 ☐ BOXES ______ (Estimate Wgt.)

☐ PACKAGES ______ ☐ OTHER ______ (Specify)

DATE AND TIME MESSENGER SERVICE NOTIFI

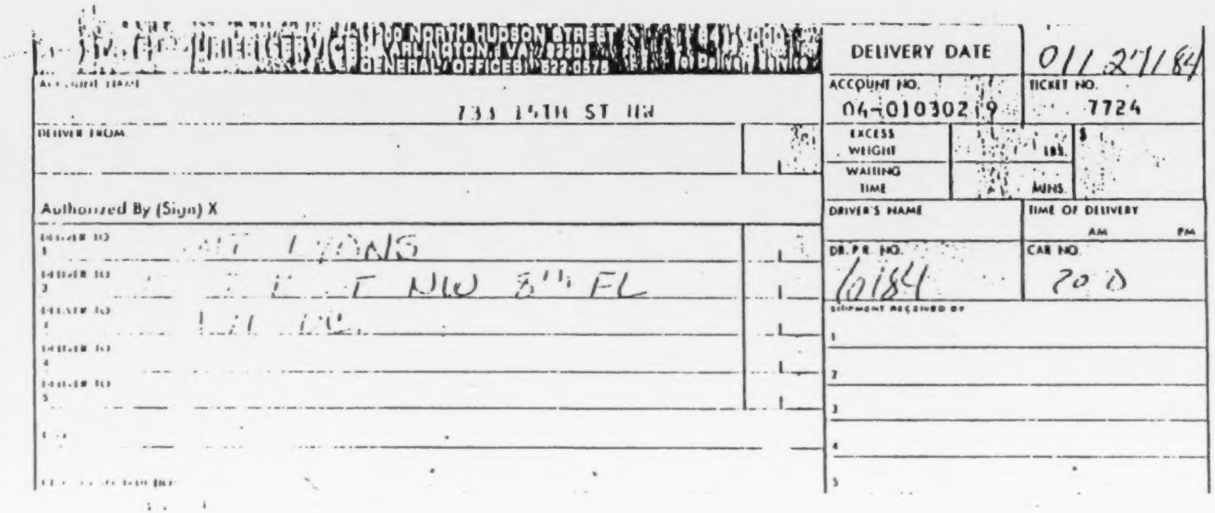
DO NOT WRITE BELOW THIS LINE

COURIER SERVICES

☑ ALLSTATE

☐ RABBIT 7724 (Ticket No.)

OTHER ______
(Company)



NORTH HUDSON STREET
ARLINGTON, VA 22201
GENERAL OFFICES 522-0578

ACCOUNT NAME	733 15TH ST NW
DELIVER FROM	
Authorized By (Sign) X	
DELIVER TO 1	[illegible] LYONS
DELIVER TO 2	[illegible] NW 8th FL
DELIVER TO 3	[illegible]
DELIVER TO 4	
DELIVER TO 5	

DELIVERY DATE	01/27/84
ACCOUNT NO.	04-0103029
TICKET NO.	7724
EXCESS WEIGHT	LBS. $
WAITING TIME	MINS.
DRIVER'S NAME	
TIME OF DELIVERY	AM PM
DR. P.R. NO.	6184
CAR NO.	20

SHIPMENT RECEIVED BY
1
2
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LEGAL SERVICES CORPORATION
733 Fifteenth Street, N.W., Washington, D.C. 20005

[illegible] Direct [illegible]
272-4356

February 7, 1984

Clint Lyons, Executive Director
National Legal Aid and Defender Association
1625 K Street, N.W.
Eighth Floor
Washington, D.C. 20006

Dear Mr. Lyons:

I have not received a response to my letter dated January 27, 1984. This letter was delivered to your office the same day. The purpose of this letter is to provide further details about the visit.

The team that will be visiting your office starting at 10:00 a.m. on February 20th and ending no later than 5:00 p.m. on February 23rd will consist of the following people: Dan Nusbaum, Director of the LSC Audit Division; Peter J. Weber, a LSC consultant from Alexandria, Virginia (Mr. Weber participated in recent national and state support visits); and James Jannetta, a LSC consultant from Hayward, Wisconsin (Mr. Jannetta participated in the 1983 NARF monitoring visit). I will also be in attendance, although Pat Paquette, the Technical Assistance Coordinator in my unit, may substitute for me on one or more days and Robert Balin, a Senior Auditor in the LSC Audit Division, may substitute for Dan Nusbaum on one or more days.

I would appreciate a response to my letter of January 27th relative to the quarterly reports as soon as possible.

Sincerely,

Gene M. Potack
Manager
Substantive Research and Support Unit
Office of Field Services

GMP/amg

[illegible] DEFENDER
ASSOCIATION

[illegible] STREET N.W.
[illegible] D.C. 20006
[illegible]

CLINTON LYONS
Executive Director
JAWARA K. LUMUMBA
Director, Civil Division
RICHARD J. WILSON
Director, Defender Division

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84 FEB 10 [illegible] 10

February 9, 1984

Gene M. Potack, Esq.
Manager, Substantive
  Research and Support Unit
Legal Services Corporation
733 15th Street, NW
Washington, DC 20005

Re: Legal Services Corp.
Grant Actions:
81-0004 & 82-0001

Dear Mr. Potack:

Thank you for your prompt follow-up to our telephone conversation of January 27, 1984.

Apparently you have misunderstood the essential points I was attempting to raise in order to bring some clarity to what, at the Legal Services Corporation (LSC), appears to be confusion regarding the administration of the above referenced grant awards. As I indicated to you by telephone and as I have indicated to other LSC officials including LSC President Bogard in past communications, NLADA will meet its obligations under the terms of the grant agreements, hopefully on a mutually cooperative basis.

It is the position of NLADA that there must be some common understanding and clarity on the following points in order to meet the legitimate interest of both LSC and NLADA in ensuring that the original intent and purposes of the grant agreements are met.

First, as you are aware, LSC President Bogard wrote NLADA in late August 1983 demanding return of "unexpended portions of grant funds" awarded to NLADA in 1981 by LSC. Mr. Bogard's demand was made on the erroneous assumption that the grants expired December 31, 1982. During the exchange of numerous letters with Mr. Bogard, I apparently convinced him of the accuracy of NLADA's position that the grants in question were intended by the parties to the grant agreement to continue until completed. Your telephone call and subsequent letter to NLADA, we believe, do serve as affirmation by LSC of NLADA's position on that point. However, I have not received a response from Mr. Bogard to my last letter. In that correspondence, I provided him, as he requested, with confirmation of the NLADA position with respect to the grants. I hope you will agree that an abrupt cessation of communication by one corporate official without formally finalizing the issues under discussion is confusing, to say the least. Further, without any communicated notice of transition on those issues, when another official initiates contact, or raises a new issue without bringing closure to the prior issue, the situation requires clarification by any standard of reasonableness.

Second, we believe that LSC does have responsibility to monitor federal funds awarded by LSC. We also believe that the monitoring process is informed and directed by the LSC Act, by the terms, conditions, and agreements of the grant award, as well as by standards of reasonableness.

You assume, based on your letter, that monitoring is defined as on-site visitation. We make no such assumption, particularly since NLADA is not a regular grantee of LSC and was awarded a grant as an independent contractor to carry out specific projects which it is uniquely qualified to do. Monitoring is a broad concept which may or may not encompass the vehicle of on-site visitation. In given situations, to be determined by the goals of the monitoring it may be appropriate. The issues I raised with you in our telephone conversation were based on a desire to have an absolute understanding, with regard to the goals and objectives of any monitoring procedure, as well as establish an agreement as to the methodology and standards to be applied in any assessment to be made. You responded to none of these issues in my conversation with you, nor in your subsequent letter beyond the observation that you would be objective, and Howard Eisenberg would vouch for you.

Third, I believe my expectations regarding clarification of all of these issues prior to agreement on the monitoring process is not only reasonable, but legally sound. NLADA not only has a responsibility to LSC but to its civil membership who are third-party beneficiaries of the grant agreements. If we fail to clarify the issues regarding your monitoring concept and goals, the service we offer to our civil membership through the grants could be jeopardized and unnecessary litigation could ensue.

Fourth, monitoring of the grant awards has proceeded. We have submitted to LSC annual audits and will do so again once the current audit is completed. You have received quarterly monitoring reports on the management project, where the bulk of the funds were allocated. The other projects funded by the grants have been reported on an annual report to LSC pursuant to subsequent mutual agreement of the parties. We were preparing to initiate the annual report on Leadership Development, Standards and private bar involvement when issues were raised as to the continuation of the projects by Mr. Bogard's letter. Since your letter appears to affirm NLADA's position that the grants have not expired, I will forward those annual reports as soon as possible.

Finally Mr. Potack, the grant award and monitoring processes I believe contemplate mutual cooperation and not one-sided demands. NLADA will cooperate with you in meeting your statutory responsibilities, but under terms and conditions that recognize the reasonable and legitimate expectations of all parties in the process.

Your demand for an on-site visit February 20, not only brushes aside the legitimate issues I have raised that must be clarified, but it ignores practical realities involved with ensuring a mutually cooperative and useful process of review. As a practical matter your demand comes at a time when NLADA is in the midst of its annual audit, is undergoing office and building renovations, and is preparing for its quarterly board meeting which begins February 23. February 20 is also a national holiday, which LSC and NLADA will be observing.

I believe it is not only reasonable and responsible to decline your request for a visit on February 20, but that it is necessary to offer, again as I have on numerous occasions, to meet with representatives of LSC to clarify the issues outlined in this letter. I believe such a meeting could take place in early March.

Sincerely,

Clint Lyons

Clint Lyons
Executive Director

LEGAL SERVICES CORPORATION
733 Fifteenth Street, N.W., Washington, D.C. 20005

Donald P. Bogard
President

February 10, 1984

Clint Lyons, Executive Director
National Legal Aid and Defender Association
1625 K Street, N.W.
Eighth Floor
Washington, D.C. 20006

Dear Mr. Lyons:

I am in receipt of your letter dated February 9, 1984. It is unfortunate that you waited two weeks to respond to my letter of January 27th. You could easily have contacted me before now to notify me that you would be refusing our access on February 20th. You have repeatedly accused the Corporation of being unreasonable and disrepectful in this matter. I disagree and seriously doubt that even you would argue that your two week delay in responding is reasonable. You are well aware of the difficulties in arranging a monitoring visit when outside, independent consultants are involved. You allege there is confusion regarding the administration of these grants and that I have misunderstood the essential points you were attempting to raise. There is no confusion on my part and I fully understand the essential points. The essential points are that you do not believe we are entitled to a monitoring visit and that the terms and conditions of any monitoring, even without a visit, must be agreed to by you. You have expressed outrage about the fact I scheduled a visit without your agreement, and because the monitoring team members were selected without your consent.

Your letter states that you do not define monitoring to include on-site visitation, particularly since the NLADA is not a regular grantee of the LSC. When I called you on February 8th, you stated that "NLADA does not operate on someone else's rules." I suggest you look at the special grant conditions attached to this award which specifically state that your organization will comply with all policies and directives "that are applicable to grantees under Sections 1006(a)(1)(B) and 1006(a)(3)(B) of the Legal Services Corporation Act." I presume you are aware of these and other conditions since, as you said on Jauary 26th, you and other former LSC employees were the persons responsible for awarding these grants.

You have stated that you are in the midst of your annual audit. I had five separate audits as Director of Wisconsin Judicare and cannot understand what problems that creates, especially with the amount of notice we have provided. You also stated that you are undergoing office and building renovations but did not indicate how this would interfere with our visit. Finally, you mentioned a holiday which NLADA will be observing on February 20th and a Board meeting on February 23rd. Although we have made arrangements to be there on February 20th, I am willing to accomodate you and reschedule the visit to start at 9:00 A.M. on February 29th and ending no later than 5:00 P.M. on March 2nd. This is thirty four days after January 27th and twenty three working days. I believe this recognizes the reasonable and legitimate expectations of all parties in the process. As I indicated in my letter of February 7th, the monitoring team will include Dan Nusbaum, Peter Weber, James Jannetta and myself. My team will be there at 9:00 A.M. on the 29th. You have no reasonable or legitimate expectation to be able to select the monitoring team or delay the visit. I regret that you are outraged by this fact.

I reassure you that this visit will be conducted objectively. I indicated in my letter of January 27th that I was willing to sit down with you the following week to discuss this matter. I therefore cannot understand why you keep mentioning that you have made a similar offer on numerous occasions. If you sincerely want to meet, then by all means let's do so.

Sincerely,

Gene M. Potack
Manager
Substantive Research & Support Unit

[illegible] AID & DEFENDER ASSOCIATION
[illegible] STREET, N.W.
EIGHTH FLOOR
WASH., D.C. [illegible]
(202) [illegible]

CLINTON LYONS
Executive Director
JAWARA K. LUMUMBA
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84 FEB 17 A 9:53

February 16, 1984

Gene M. Potack, Esq.
Manager, Substantive
Research and Support Unit
Legal Services Corporation
733 15th Street, NW
Washington, DC 20005

RE: Legal Services Corporation
Grant Actions: 81-0004 &
82-0001

Dear Mr. Potack:

I regret very much that you have chosen to misinterpret and misrepresent my communications with you. But fortunately correspondence between LSC officials and NLADA is a matter of record and speaks for itself. Since I have neither the time nor the inclination to engage in a bureaucratic hassle with you, let me state my position.

Throughout my correspondence with LSC officials I have consistently stated that NLADA will cooperate with LSC in ensuring that NLADA's obligations and LSC's responsibilities under the terms of the grants awarded to NLADA are met. NLADA has, however, raised legitimate issues relating to the goals, the standards to be applied, as well as the appropriate methodology to be employed in implementing a review procedure that will be fair and allow LSC to meet its legitimate responsibilities. NLADA has consistently offered to meet and work through these issues in order to facilitate a review process. These are substantive issues to which we have received no response from anyone at LSC, including you. You have chosen to ignore these issues apparently because NLADA is attempting to establish some ground rules that will ensure fairness and objectivity. The LSC Act, while giving LSC the authority to monitor LSC funded activities, does not contemplate arbitrary and capricious conduct on the part of LSC.

You have decided, without prior communication or consultation, that you will conduct a monitoring visit of NLADA, an independent corporation whose day-to-day activiti re separate from the activities under the LSC grants award to NLADA. When substantive and legitimate issues are raise with regard to a monitoring process, they are ignored. You seem willing to talk about a decision you have made without consultation but you are unwilling to address the critical issues of substance that transcend your decision to conduct a monitoring visit.

It is unacceptable to NLADA that an additional monito process other than that already in place should go forward prior to resolution of the issues raised in this and prior correspondence with LSC regarding these grants.

NLADA regards your insistence on a monitoring visit i light of the legitimate issues we have raised to be arbitr and capricious.

I am willing to meet with you to resolve these issues and to cooperate in a legitimate monitoring process, but your attempt to unilaterally and arbitrarily impose a monitoring visit on NLADA on February 29th is unacceptable

Sincerely,

Clint Lyons
Executive Director

LEGAL SERVICES CORPORATION
733 Fifteenth Street, N.W., Washington, D.C. 20005

Donald P. Bogard
President

Writer's Direct Telephone
(202) 272-4356

February 27, 1984

Clint Lyons, Executive Director
National Legal Aid and Defender Association
1625 K Street, N.W.
Eighth Floor
Washington, D.C. 20006

Dear Mr. Lyons:

I am in receipt of your letter dated February 16, 1984, wherein you again refused access for a monitoring visit despite our attempt to accomodate you by rescheduling the visit for a later date.

You state that NLADA has consistently offered to meet to resolve various issues of the review process. However, I attempted to schedule a meeting when I talked to you on the phone on January 26, 1984. You refused to schedule a meeting or discuss terms until you received a formal communication from me regarding our intention to conduct a monitoring visit. I made the same offer in my letters of January 27, 1984 and February 10, 1984. It therefore appears that you are raising issues and making offers without any intention of resolving this matter or reasonably responding to our requests for information.

You attempt to justify your lack of cooperation by raising issues which you claim have not been responded to by anyone at LSC, including me. Since you apparently have no intention of meeting with me, I will attempt to respond to the issues you raised.

Your first inquiry relates to the goals of the monitoring visit. I thought I made it perfectly clear in my correspondence and conversations with you that we intend to evaluate whether the expenditures were made consistent with the Legal Services Act of 1974, as amended, and those rules, regulations, policies, guidelines, instructions and other directives issued thereunder by the Legal Services Corporation, as well as the terms and conditions of the grants. The Corporation has a responsibility to maintain its oversight management functions so that we can assure the Congress, our Board of Directors, and our client community that services are being provided economically and effectively. I find it difficult to believe that you need more clarification than that in light of your long history in legal services.

The other issues raised by you concern the standards to be applied and the methodology to be employed in implementing the review. I told you who would be conducting the visit three weeks ago. Since I have heard no objections, I assume you have no comments regarding the qualifications of the individual team members.

In terms of the areas and issues into which the team will inquire, I am enclosing a copy of the monitoring instrument developed for use during the monitoring of the Regional Training Centers. It includes three checklists and a description of how they were developed. This instrument will be utilized for monitoring and evaluating the NLADA grants. The reasons for using this instrument are: (1) You correctly stated that the bulk of funds were allocated for the Management Project; and (2) The Management Project Policy Board apparently decided that training activities would be emphasized, while individual technical assistance would be used only as supportive followup to the training. It is my understanding that the training packages were to be delivered entirely through existing networks such as the Substantive Law Training Center and Regional Training Centers. I therefore trust that you have already seen a copy of the enclosed instrument and agree that it is appropriate for the NLADA monitoring visit.

Your final point is that monitoring of the grant awards has already proceeded. You apparently view a few sketchy and delinquent quarterly reports for the Management Project ($1,200,000) as sufficient for the other projects. I would appreciate knowing which "subsequent agreement of the parties" you are relying upon to the effect that quarterly reports were not required for the Leadership Project ($500,000), Standards Project ($80,000), Library Project ($20,000) and Private Bar Project ($140,000). I would also appreciate knowing which agreement you are relying upon to the effect that no prior approval is required for consultant fees in excess of $2,500. In any event, I do not view the reporting (or lack thereof) referred to above as sufficient monitoring of these grants.

I reassure you that you and your program will be treated fairly in this process. Your program has not been singled out in any way for special treatment. However, the Corporation has a responsibility to maintain its oversight management functions, and given your long history in legal services, I am sure you can understand our position.

I am therefore rescheduling the monitoring visit for March 19, 1984. In addition to the materials referred to above, I would appreciate receiving, no later than March 13, 1984, copies of the following materials:

1. A copy of your accounting manual and chart of accounts, as well as internal management reports (budget-to-actual, etc.) for the period beginning January 1, 1981, and other information which explains in detail the status of the above-mentioned grants;

2. Copies of all Advisory Board minutes;

3. A list of past and current staff members of the Leadership and Management Projects;

4. A list of other NLADA staff members for the period from September 28, 1981 to the present time;

5. Copies of all workplans and priorities statements for the above-mentioned projects;

6. Copies of all reports, including those previously submitted to Anita Henry at the Atlanta Regional Office, relative to the above-mentioned grants;

7. Copies of all contracts with individuals and organizations for consulting fees paid for in whole or in part with the above-mentioned grants;

8. A list of all consultants and the amounts paid to date for each individual and organization;

9. Copies of agendas, lists of trainers, and lists of participants for all training events paid for in whole or in part with the above-mentioned grants; and,

10. Documentation of technical assistance consultations and followups.

I believe the grant conditions and subsequent agreements provide that NLADA will submit all appropriate information requested by the Corporation. I trust you will agree the information requested above is necessary for purposes of this monitoring. Since your audit process is well underway, I would also appreciate a call or letter this week to let me know approximately how much of each grant was not expended as of December 31, 1983.

Thank you in advance for your cooperation.

Sincerely,

Gene M. Potack
Manager
Substantive Research
and Support Unit
Office of Field Services

GMP:jmp

Enclosures

LEGAL SERVICES CORPORATION

272-4080

March 14, 1984

Clint Lyons, Executive Director
National Legal Aid and
Defenders Association
1625 K Street, N.W., 8th Floor
Washington, D.C. 20006

Dear Mr. Lyons:

Please be advised that there will be two substitutions on the team that will be conducting the monitoring visit on March 19 - 21, 1984.

I substituted Al Taradash for James Jannetta because Mr. Jannetta was an employee of mine at Wisconsin Judicare. Mr. Taradash is a private attorney at the firm of Nordhaus, Halton & Taylor in Albuquerque and was the Director of Litigation at DNA-People's Legal Services from July 6, 197[illegible] until August 5, 1983. He is a 1970 graduate of John Marshall Law School.

Another consultant, Pete Weber, is unavailable due to a scheduled vacation in Florida. In his place I am sending Joe Hinton, an accountant who participated in several state support visits last year.

I would appreciate the materials requested in my last letter. If you do not plan to produce the materials this week and allow us access next week, you could easily save us a lot of time and money by immediately notifying me of your refusal.

Sincerely,

Gene M Potack

Gene Potack
Acting Director
Office of Field Services

GP/nc

BOARD OF DIRECTORS

March 14, 1984

Mr. Donald P. Bogard
President
Legal Services Corporation
733 15th Street, N. W.
Washington, DC 20005

RE: Legal Services Corporation
Grant Actions: 81-0004 &
82-0001

Dear Mr. Bogard:

I am writing to you in the hope of resolving the apparent impasse that has developed between Mr. Gene Potack of LSC and Clint Lyons, NLADA's Executive Director, regarding the monitoring of LSC grants awarded to NLADA. I want to assure you that NLADA is anxious to have this matter resolved in a way that meets the legitimate interests of NLADA and LSC. NLADA will cooperate fully in a review of LSC funded activity conducted by NLADA. We do believe, however, that there must be some prior understanding and agreement regarding the status of the NLADA grants, as well as the scope and conduct of the review process.

With regard to the status of the LSC grants, there are legal and contractual obligations on the part of both LSC and NLADA which flow from the definition of that status at this time. LSC has never responded to NLADA's offer of proof with regard to the continuation of the LSC grants. We believe this issue must be clarified prior to moving forward in the review process.

Further, we believe it is critically important to have specific prior understanding regarding the scope and the conduct of a review of the LSC grants.

As you know, NLADA is a non-profit corporation that advocates high quality legal services in the civil and criminal defense areas. It also performs educational services for the public, and provides support services for its membership. The LSC funded activity at NLADA forms only a part of its overall activity. NLADA, in short, has ethical and fiduciary obligations in other relationships that must be met. We believe that a clearly defined understanding regarding the scope and conduct of the monitoring process will serve LSC's statutory interests, as well as protect the legitimate interest of NLADA.

We believe the concerns we have can be addressed, and a more efficient review process provided for by proceeding in the following manner:

1. By the end of March, NLADA will have audited figures on the LSC grants as part of the overall audit of NLADA. The audit will then be forwarded to LSC.

2. NLADA is in the process of compiling a detailed annual report of its LSC grant activities which will also be completed by the end of March. The report will include most of the materials requested in Mr. Potack's most recent letter. We will forward this report along with the audit report to LSC.

3. Additional material will be provided laying out the history of LSC grant activity at NLADA.

After LSC has had an opportunity to review these materials, I suggest that additional areas of concern and any issues outstanding can best be resolved in the context of a meeting specifically designed to identify and resolve those issues and concerns. We should then be in a better position to resolve all of the issues relating to the review process.

It is my hope that this effort at moving the process forward meets with your approval and cooperation.

Sincerely,

Benjamin Lerner

Benjamin Lerner
President
National Legal Aid
and Defender Association

cc: Gene Potack
Clint Lyons

The **Chairman**. OK, as soon as you can.

Go ahead.

Mr. **Potack**. The following day, I provided that formal communication in which I also outlined or discussed the conversation we had the day prior. I indicated in that letter that NLADA had indicated that it was not a typical grantee, and therefore they wouldn't agree to any monitoring until all the terms and conditions of that monitoring business were negotiated. He was not sure whether or not a visit would even take place, because his interpretation of monitoring didn't necessarily call for a monitoring visit. So at that point in the conversation on the 26th, and this is outlined in the letter, I said, "We gave you a lot of money, a couple million dollars," and we had a right to monitor those grants.

The **Chairman**. Who were you talking to at the time?

Mr. **Potack**. Mr. Clint Lyons, the Executive Director of NLADA.

The **Chairman**. What did he say?

Mr. **Potack**. He took exception with my statement that we gave them the money. He became somewhat exercised about that, that in fact it was he who gave the money as being the primary—having primary responsibility for that grant award while he was at the Corporation and not myself, I guess. So he was upset with the fact that I indicated that we had given him the money because it was he and former officials at the Corporation that were responsible for awarding those grants. And he also indicated that it would be hard for a team to judge whether that money was spent as intended because I wasn't around at that time to know what the parties intended those grants to be used for.

The **Chairman**. He just as much as thumbed his nose at you, then? Is that what you're saying?

Mr. **Potack**. That's the way I—well, at that time he requested further meetings in order to negotiate all these terms and conditions. That was not acceptable——

The **Chairman**. How long ago was that?

Mr. **Potack**. That was January 27.

The **Chairman**. This year?

Mr. **Potack**. Of 1984.

The **Chairman**. Well, on March 24, 1982, Mr. Hewlett Askew sent a letter to Wayne Pressell, who was director of the management project, which stated that as a result of the meetings that Mr. Lyons and he had had with representatives from NLADA they had an adequate sense of the progress that had been made on the grants and what was being planned for the future.

Mr. Askew, as I understand it, went on to say that, as a result, NLADA's requirement to provide the Corporation with a work plan and detailed budget was satisfied. Aside from Mr. Askew's and Mr. Lyons' personal observations, are there any other materials that the Corporation has retained to explain what NLADA is either doing or not doing with this management project?

Mr. **Potack**. As Mr. Bogard indicated, all we have are two sketchy reports which indicate that they received $1.2 million for the management and development project, and that they had made certain expenditures for consultants. There's a notation on each of those reports that no prior approval is required.

Other than that information, we don't have anything and those reports were only for the management and development project. We did not receive any type of quarterly reports on the other portions of those grants——

The CHAIRMAN. So there is no written record at all, then?

Mr. BOGARD. I believe Mr. Norell could add something.

The CHAIRMAN. Mr. Norell.

Mr. NORELL. Yes, sir; one of the grant assurances that was originally agreed to with NLADA had to do with the filing of quarterly reports. They were also required to file a detailed work plan and a line item budget. The last two of those items were in a series of letters on March 23, that the Corporation agreed essentially to waive those items; but indeed, a line item budget was provided and it was 12 lines.

The CHAIRMAN. It was what?

Mr. NORELL. It was 12 lines long.

The CHAIRMAN. Twelve lines long. That's all, for a $1.2 million project?

Mr. NORELL. Yes, sir.

Additionally, they have not waived the question of quarterly reports. However, quarterly reports were not provided, and in August 1982 the Corporation waived the requirement that quarterly reports be provided for the ones that should have been provided in the past. They did not, however, waive the next quarterly reports that were due. Yet we can find no evidence that quarterly reports were ever forthcoming.

The CHAIRMAN. If I understand you correctly, most Corporation grants contain a condition requiring this submission of quarterly or semiannual reports on the status of the particular grant; that's right, isn't it?

Mr. NORELL. Yes, sir.

The CHAIRMAN. OK. Now, what you're telling us is that these have not been provided except in part, and certainly, not currently.

Mr. NORELL. Yes, sir; that's correct.

The CHAIRMAN. And their claim is that the Corporation waived this requirement; is that correct?

Mr. NORELL. Yes; again, there is a series of correspondence in which two of the grant assurances were, in essence, waived. They did not, however, waive the quarterly reports; they are simply not there. The only two that we have, that we were able to locate, were from 1983, and they are very sketchy.

The CHAIRMAN. Well, let me put into the record a letter to Mr. Wayne M. Pressell, dated March 4, 1982, from Hewlett H. Askew. Without objection.

[Material supplied follows:]

272-4080 March 2~~3~~4, 1982

Wayne M. Pressel
Director, Management Project
National Legal Aid & Defender Association
1625 K Street, N. W. -Eighth Floor
Washington D. C. 20006

Dear Wayne:

Thank you for your letter of March 23 regarding the activities of the Management Project. As you know the grant made to NLADA by the Legal Services Corporation contained several special conditions requiring the submission of line item budgets, workplans, and quarterly reports (see conditions ~~number~~ 9, 10, and 11). In December of 1981, Howard Eisenberg requested and I approved, an extension of time for complying with these conditions because of delays experienced in hiring the director of the Management Project.

The sum and substance of the conditions on your grant emphasize the Corporation's interest in the success of your project. Technical compliance with formal conditions is of course very important, but the Corporation has always done more than simply relate to its grantees in a formalistic compliance context. Clint and I believe that because of our interaction with both you and Howard, because of our attendance at several meetings where the work of the project was discussed, and because of the feedback we have received from various individuals, including many of the Regional Directors, we do have an adequate sense of the progress your project has made and what your plans for the future are. Our oversight responsibilities have been met, both in formal and informal ways.

Therefore, your letter of March 23 serves as formal compliance with special conditions number 9 and 10 of the grant to NLADA dated September 28, 1981. I appreciate your responsiveness and the effort you have made to keep us informed of the project's progress.

I understand that the Advisory Committee will be meeting again on March 26 to provide further guidance to you as to the most pressing needs in the field. I expect that as issues develop and time passes, that some of your priorities may changes and the workplan will become more specific. Please keep us apprised of these changes.

Thank you for your cooperation.

Sincerely,

Hulett H. Askew
Deputy Director
Office of Field Services

cc: Howard Eisenberg

The CHAIRMAN. In other words, while Mr. Lyons and Mr. Askew were handling these grants for the Corporation in 1982, they excused NLADA from the standard requirement to provide a written status report on those grants. Am I correct?

Mr. NORELL. That's correct, from what is indicated from the record. Yes, sir.

The CHAIRMAN. I think that is the letter I just put into the record.

Let me turn to the leadership project, Mr. Bogard. Has the Corporation received any reports from NLADA regarding that particular project?

Mr. BOGARD. I don't believe so.

Maybe Jim could answer that.

Mr. NORELL. Yes, sir. There is one report that we have in the record on the——

The CHAIRMAN. Could you tell us the title of that report?

Mr. NORELL. Yes, sir. It's the Leadership Project, Legal Aid and Defenders' Association Annual Report, October 1, 1982——

The CHAIRMAN. That's the one we received last year?

Mr. NORELL. Yes, sir.

The CHAIRMAN. OK.

Mr. NORELL [continuing]. To September 30——

The CHAIRMAN. Well, when I looked at that I was amazed to find that it contained numerous recommendations that, if implemented, would violate most of the existing congressional prohibitions. Do you agree with that?

Mr. NORELL. Yes, sir.

The CHAIRMAN. For example, there's a discussion where their efforts should be focused on, "finding new ways of working, particularly in the areas which are likely to be blocked by LSC legislation or regulation." You're familiar with that language?

Mr. NORELL. Yes, sir.

The CHAIRMAN. Elsewhere, the report emphasizes the need to solidify the political posture and the ideological glue of the system. Are you familiar with this statement?

Mr. NORELL. Yes, sir, I am.

The CHAIRMAN. The report also suggests that NLADA should use the leadership project moneys to provide financial assistance to those organizations, "linked to the central ideologies of the legal services movement in order to effectively support an informal government in exile." Is that a direct quote?

Mr. NORELL. Yes, sir.

The CHAIRMAN. In addition, the report suggests the moneys be used to draft and lobby for passage of model legislation in target States, and one recommendation urges development of a national orientation program, similar to a, "military model and results in the indoctrination of those who pass through it." Are you familiar with that?

Mr. NORELL. Yes, sir.

The CHAIRMAN. It's all in that report?

Mr. NORELL. Yes, it is.

The CHAIRMAN. Taken together, the report seems to advocate that the moneys earmarked for the leadership project, more than $1 million, be used to underwrite the political agenda of the legal services community during the Reagan administration's tenure in office. Do you differ with that comment?

Mr. **Norell**. Senator, we don't know how this money was spent——

The **Chairman**. That's what I'm saying. That's what they seem to be advocating here.

Mr. **Norell**. Yes.

The **Chairman**. That these moneys be used to underwrite that type of activity.

Mr. **Norell**. Yes.

The **Chairman**. So you don't know whether those approaches were actually implemented?

Mr. **Norell**. No, sir, we do not.

The **Chairman**. Let me insert into the record at this particular point, as Bogard document No. 2, a copy of the report.

[Bogard document No. 2 follows:]

Bogard Doc. #2

ANNUAL REPORT
OCTOBER 1, 1981 - SEPTEMBER 30, 1982

LEADERSHIP PROJECT

NATIONAL LEGAL AID & DEFENDER ASSOCIATION

1625 K Street, N.W.
Eighth Floor
Washington, D.C. 20006

BACKGROUND

On September 15, 1981, the Executive Director of the National Legal Aid & Defender Association submitted to the Legal Services Corporation a request for funding for various projects, including a request to establish and coordinate a Leadership Development Project within the Legal Services community. The funds were awarded to NLADA on September 28, 1981 as a one-time grant with the expectation that the funds would last throughout at least 1982 and 1983, and potentially into part of 1984.

The grant was awarded to the Association during a period of change in which it was recognized that additional leadership and new types of leadership would be required in the Legal Services community. There were varying opinions among personnel of the Corporation, NLADA, and others within the field as to exactly the form the Leadership Project would take and how this new leadership could be developed as efficiently and effectively as possible.

The initial determination made by NLADA, in conjunction with the staff of the Legal Services Corporation, was to retain Joan C. Lieberman, a well-known management consultant in Boulder, Colorado, to do a detailed evaluation of the options and alternatives which were available for a Leadership Project within the Legal Services community. This work was undertaken by Ms. Lieberman--extensive field interviews, analysis, and study--from approximately November 1, 1981 through June 30, 1982.

Ms. Lieberman made an extensive study of those persons identified as either leaders within the Legal Services community presently, persons who had knowledge of the Legal Services community, or those who had general familiarity with concepts of leadership. The following is a list of persons interviewed by Ms. Lieberman during this process:

Legal Services Organizations

National Organizations

Advocates for Legal Services

Ann MacCrory

American Bar Association

Peter Bonovich, Director of Legal Services

Back-Up Centers

Jack Anderson, Staff Attorney, National Economic Development and Law Project
David Kilpatrick, Deputy Director, National Economic Development and Law Project
Sylvia Drew Ivie, Director, National Health Law Program
Robert Sable, Director, National Consumer Law Center

Coalition for Legal Services

Carolyn Stuart

Legal Services Corporation

Bucky Askew, Deputy Director, Office of Field Services
Dan Bradley, President
Theron O'Conner, Associate Director for Resources and Support
Victor Geminiani, Regional Director, Atlanta Regional Office
Alan W. Houseman, Director, Research Institute on Legal Assistance
Beatrice Moulton, Director, Office of Program Support
Paul Newman, Regional Director, Boston Regional Office
Marttie Thompson, Regional Director, Philadelphia Regional Office
Salvador Tio, Regional Director, New York Regional Office

National Bar Association

Annette Hubbard, President

National Organization of Legal Workers

Jim Braude, President, NOLW
Regina Little, staff, NOLW

National Legal Aid and Defender Association*

Howard Eisenberg, Executive Director
Julius Menshah, Director, Civil Division
Cheryl Porte, Civil Division
Jack Schmerling, Deputy Director, Defender Division
Rick Wilson, Director, Defender Division

Individual Leaders and Followers by Region

Region I - Boston

Cling Bamberger, Legal Services Institute, Massachusetts
Gary Bellow, Director, Legal Services Institute, Massachusetts
*John Brooks, Peabody & Arnold, Massachusetts
John Dooley, Consultant, Vermont
Esther F. Lardent, Director, Volunteer Lawyers Project, Massachusetts
Hal Lieberman, Executive Director, Central Massachusetts Legal Services, Massachusetts
William J. McNally, Director, Greater Boston Legal Services

Jim Keenan, Vice President for General Semicondoctor, Inc. (former Project Director of CLS in Phoenix)
Murray Richtel, District Court Judge, Boulder
Helen Stone, Skaggs, Stone & Sheehy, Boulder

Region VIII - San Francisco

Ralph Abascal, Director of Litigation, CRLA, San Francisco
Micky Bennett, Statewide Coordinator, San Francisco
Barbara Creed, Pillsbury, Madison & Sutro, San Francisco
Joanne Garvey, Jordan, Keeler & Seligman, San Francisco
Anthony Klein, Superior Court Judge, San Francisco
Jim Lorenz, author and activist, Oakland
Robert D. Raven, Morrison & Foerster, San Francisco
Ray Schonholtz, Director, Community Board Program, San Francisco
Jayne Tyrell, Director Volunteer Lawyers Program, San Francisco

Region IX - Seattle

Bob Atkinson, Program Director, Marion-Polk Legal Aid Service, Salem
Greg Dallaire, Director, Evergreen Legal Services, Seattle
Steve Lowenstein, Director, Oregon Legal Services, Portland

* Board members listed by Regions (present and former)

Resource Institutions

Aspen Institute

Alice H. Henkin, Associate Director, New York City
Robert McKay, Director of Program on Society and Justice, New York, City
Stephen P. Strickland, Vice President, Washington, D.C.

Boalt School of Law, University of California at Berkeley

Herma Hill Kay, Professor of Law
Harry Scheiber, Professor of Law

Boston University

Frances Cox Piven, Professor of Political Science

Center for Law and Human Values

Gary J. Friedman, Mediation Specialist, Mill Valley, California

Center for Leadership Studies, Ohio University

John Stinson, Director

Columbia School of Law

Jack Himmelstein, Professor of Law

Ford Foundation

Susan Beresford, Program Officer, New York City

Georgetown University Law Center

Norman Birnbaum, Professor of Law, Washington, D.C.

Harvard Law School

Roger Fisher, Professor of Law; Director of Harvard Negotiation Project
Roberto Mangabeira Unger, Professor of Law

Harvard University - Program of Senior Executive Fellows John F. Kennedy School of Government

Peter Zimmerman, Assistant Dean

Local Initiatives Support Corporation

Mitch Sviridoff, President, New York City

National Rural Fellows Program

Starry Krueger, Director, New York City

National Urban Fellows Program

Frank Logue, Founding Director, New Haven, Connecticut

New York University School of Law

Howard Lesnick, Professor of Law, New York City
Tony Amsterdam, Professor of Law, New York City

Northeastern University

Karl Klare, Professor of Law, Boston

Public Committee on Mental Health

Dr. Tom Bryant, Washington, D.C.

Stanford University School of Law

Mark Kelman, Professor of Law, Palo Alto, California
William Simon, Professor of Law, Palo Alto, California

United States Office of Government Ethics

J. Jackson Walter, Director, Washington, D.C.

University of California at Los Angeles

Richard Abel, Professor, School of Law
Carrie Meadow, Professor, School of Law
Monroe Price, Professor, School of Law
Dr. Bernard Towers, Co-Director, Program in Medicine, Law and Human Values

University of Chicago School of Law

Lea Brilmayer, Professor of Law

University of Colorado School of Law

Skip Chase, Professor of Law (Founding Director of Colorado Rural Legal Services), Boulder
David Getches, Professor of Law (Founding Director of Native American Rights Fund), Bounder
Betsy Levine, Dean, Boulder

University of Oregon School of Law

Edwin Baker, Professor of Law, Eugene

University of Pennsylvania School of Law

Ed Sparer, Professor of Law, Philadelphia

University of Virginia School of Law

Charles McArdle, Professor of Law, Charlottesville

University of Wisconsin School of Law

Willard Hurst, Dean of Legal History (Emeritus)

Western (Federal) Executive Seminar Center

Ernest D. Wakam, Director, Denver

Yale University

George Priest, Professor, School of Law
James Tobin, Professor, Graduate School of Economics

Experts

Lee Bolman, Professor of Education
Harvard School of Education

Roger Fisher, Director
Harvard Negotiation Project, Harvard School of Law

Tom Gilmore, Associate Director
Management and Behavioral Science Center
Wharton School of Business, Philadelphia

Trudy Heller, Professor
Temple University, Philadelphia

Larry Hirschorn, Professor of Planning
University of Pennsylvania, Philadelphia

Harry Levinson, Director
Levinson Institute, and Professor
Harvard Business School

Michael Lipsky, Professor of Political Science
Massachusetts Institute of Technology

Donald A. Schön, Professor
Massachusetts Institute of Technology

Reed Whittle, Management Consultant
White Plains, New York

Abraham Zaleznik, Professor of Social Psychology of Management
Graduate School of Business Administration
Harvard University

LEADERSHIP ALTERNATIVES

Based on interviews with these people, Ms. Lieberman, developed a major work entitled "Leadership in Legal Services" made available to the Executive Director of NLADA in draft form in May, 1982, and in more final form in June, 1982. (This document has previously been submitted to L.S.C. staff.) This work outlined the major approaches and description of the types of strategic intervention which were recommended by persons within the Legal Services community.

The major approaches and description of the type of strategic interventions linked to each are described below.

I. Strengthen Leadership Capacity

Strategic interventions could occur at the national, state, or local level. They could apply to minorities, program leaders, bar leaders, or leaders in the client community. They could be directed toward strengthening the capacity of political leaders, substantive leaders, managerial leaders, or support leaders. Each would be helped to develop new ideas and skills which would facilitate adaptation of changes in their leadership tasks.

II. Facilitate Maximum Adaptations to the "New Situation"

Appropriate strategies would be designed to help leaders and their constituencies make the fullest use of the remaining available space, to develop new delivery mechanisms, and to find new ways of working particularly in the areas which are likely to be blocked by LSC legislation or regulation.

III. Reduce Stereotyping and Insularity

Work on this goal would require interventions which would work across a variety of relationship boundaries, for example, between the ABA and NLADA, between programs and clients, between the private sector and the poor, or between programs and local bars. Each would be designed to increase mutual understanding and collaboration.

IV. Strengthen the Existing Infrastructure

Strategies for this goal might include interventions targeted at law schools and the recruitment of graduating law students, others at preserving and maintaining existing staff through fellowships and sabbaticals, providing training in the issues of new federalism, helping to solidify the political posture and the ideological glue of the system, and generally seeking ways to reduce the stress on advocates at all levels of experience.

The type of strategies for each of the four approaches most frequently mentioned by those individuals interviewed are briefly described below.

I. STRENGTHEN LEADERSHIP CAPACITY

1. Certification of Managers

An effort to begin a certification process for legal services managers assumes the legal services system will survive the current crisis and will eventually emerge as a strong and permanent part of the judicial system. The historical undervaluing of management and management development will hamper this development. To ensure that it is not sacrificed further during the current crisis, NLADA should create a certification program for legal services managers. The certification program would include the identification of the essential skills required to manage a legal services program. (Some of this work has already been done by LSC's former Management Development and Assistance Unit.) These skills would then be incorporated in a training program which would be offered several times a year. The training program might be informally required for all individuals accepting management responsibilities within programs. In conjunction with completion of the training, follow-up audits would be done by the training staff to certify that managers' day-to-day performances were meeting the standards of the program. Ideologically this is a neutral strategy which has a long-term focus and time frame. Realistically this work should be undertaken by the new NLADA Management Project, headed by Wayne Pressel, and the merger of the two efforts could increase the pool of resources available to each.

2. Leadership Academy/Institute

The absence of rewards and status for legal services leaders has limited the pool of individuals willing to undertake these roles. The creation of a national leadership institute should provide both the support and rewards for individuals willing to assume leadership roles within the system. The institute or academy would be staffed by a small pool of experts who could draw on other resources as needed. Individual legal services leaders would come to the academy or institute for periods of time ranging from a few days to several weeks. They would be engaged in both individual and group study during these periods depending on their needs. In addition, the academy could incorporate site-visits to locations throughout the country where client groups and other particularly effective and innovative programs were operational. Some believe such an institute should have a blue ribbon quality to it and that individuals invited would have to be nominated or recommended for participation in some way. This strategy has a long-term time focus and its ideological orientation would be dependent on the selection of key staff at the Institute and the curricula used. The current resources would be adequate for start-up, but would have to be supplemented by the second or third year.

3. National Organization Intervention

Under conditions of extreme hardship and stress like those facing the legal services community at the present time, the community's chances of survival are enhanced when it has leadership which can maintain its integrity, keep it realistically informed of the situation confronting it, fulfill the expectations of members, is willing to act outside the bounds of stated authority, maintains its commitment and goal direction, and is able to transform members' personal concerns into concerns for achieving community goals. Unfortunately, at the present time none of the organizations which might provide such leadership at the national level are realistically equipped to do so. LSC's staff is hampered by the impending Board and senior staff changes. The Coalition of Legal Services, the National Clients Council, and the Project Advisory Group all seem to be perceived as over-politicized. NLADA is short-handed and hampered to some degree by past leadership turnover and failures. The ABA is so culturally distinct from the legal services community that its considerable resources are tainted, and the Advocates for Legal Services are organized to mobilize Congress, not the legal services community. Therefore, LDFP monies should be used to strategically strengthen the capacity of one or more of the existing national leadership groups to provide the kind of unified leadership needed to assist programs and staff across the nation.

It is assumed that no strategic intervention can be made in LSC at the present time because of the impending changes in Board and staff. All of the other organizations might be considered candidates for help. Some possible interventions are briefly described below:

> Coalition for Legal Services--Monies could be used to hire additional staff, some of which could nurture the statewide coordinator network and others who could travel across the country to meet with legal services staff and supporters and provide and mobilize leadership. Some monies should be used for process consultation with the existing Coalition Board in an effort to reduce what appear to be dysfunctional tensions among key members.
>
> Project Advisory Group and National Clients Council--At this juncture it is not clear how additional monies could reduce the over-politicization inherent in NCC and PAG in ways which would also increase their national leadership capabilities, although if a national leadership strategy is adopted, further exploration of the options should occur.
>
> NLADA--As the oldest and most broadly based of all the national leadership organizations, NLADA seems the most likely candidate for the national leadership role. In addition to needing staff on its civil side, it appears that considerable organizational and management development work is needed if NLADA is to perform more effectively. A formal organizational diagnosis, followed by planned improvements and individual leadership consultation for the key staff seems critical.
>
> The American Bar Association--The ABA already has several operating projects which relate to legal services survival and adaptation. Additional monies might be used to increase the capacity of these projects or to develop new ones. A "Special Assistant to the President for Legal Services" might be added to circumvent what some perceive is a cumbersome ABA bureaucracy. Other staff could be used to increase communication and integration between bar leaders and legal services leaders.
>
> Advocates for Legal Services--This group could be strengthened with staff assistance so that their influence could be used at state, foundation, and corporate pressure points--particularly if all federal funding is eliminated in 1983.

The strategy of intervening in national organizations has real risks related to the choice of institutions and the uncertainty of success. On the other hand, there could be major benefits to the entire community if the work goes well. The current resources are more than adequate to support this strategy for several years. It is work which has a short-term focus, with potential long-term payout.

4. Network-Related Intervention

The legal services system is well known for its informal social networks, that is, its patterns of relationships and interaction among persons or programs. These patterns are regular and persistent and, in that sense, lawlike, but they are not governed by formal rules. They lie outside the boundaries of the formal system, of formal regulation, and of formal organization. They are particularly helpful in times of crisis and in many instances can be supported and helped in ways which will strengthen the formal system. Networks depend upon persons who play "network roles." Among these roles are brokerage, referral, mediation, diffusion, facilitation, and evaluation. In addition, some important parts of the legal services network are built on shared beliefs and values, and in these cases the person playing the network role serves as a carrier and promulgator of these beliefs and values. In this sense the survival and vitality of the legal services network is dependent upon the particular persons who play such roles, some of which in the current situation are irreplaceable.

Given the level of uncertainty and the likely co-option of the formal network by a conservative LSC Board and staff, NLADA should use its leadership development monies to support the informal networks which are particularly linked to the central ideologies of the legal services movement. Particular attention might be devoted to working with minority bar groups to strengthen their involvement in legal systems. Support could come in the form of small grants for covering travel costs for assembling the network of advocates in a particular substantive area of law, salary supplements to individuals in key "network roles," and/or for someone facilitating brokering, referrals, etc. The possibilities for network intervention are numerous. The techniques for doing so are described in a paper written by Don A. Schon of the Massachusetts Institute of Technology.

This strategy is perhaps the most culturally and ideologically in tune with the legal services community. It is active, leveraged, and avoids the producer-consumer mentality problem. It could effectively support an informal government in exile and would benefit from self-chosen levels of participation and commitment. The current resources are adequate; the focus is short- to medium-term.

5. Training in Conceptual, Interpersonal, and Technical Skills

Legal services leaders need three kinds of skills: (1) conceptual skills which are needed to recognize the interrelationships of various factors involved at different times and in different settings; (2) interpersonal skills for working with others to be an effective group member and to be able to build cooperative efforts within and between teams; and (3) technical skills needed to accomplish the mechanics of the particular job for which he or she is responsible. At the present time most of the training resources available within the legal services network are for training in interpersonal and technical skills. I could identify no training in conceptual skills. This is not to say that additional training is not needed in the two other areas, only that the largest gap is in the conceptual area.

Conceptual Skills

The absence of conceptual skills among current leaders appears to have hampered organizational development in stable times and has sorely depleted the response to the current crisis. The lack of conceptual skills among lawyers relates primarily to the narrow and highly technical nature of their professional education. Training in conceptual skills needs to be done on the interrelationships of past and current social, economic, and political trends and their impact on poor people; the developmental tasks of legal services organizations as the result of these trends; and the interrelationships between leaders, followers, and clients within the unique professional work settings of legal services programs. LDFP monies should be used to develop curricula in conceptual skills which would be offered to a wide variety of actors within the legal services milieu, but particularly to current and emerging leaders. A number of approaches are possible, among them:

> NLADA could create a special institute similar to that of the National Institute of Humanities and other institute programs which draw on nationally recognized faculty from both universities and the private sector. This institute should be staged on an annual or semi-annual basis. The initial LDFP monies should be used as seed funds. Additional support should be drawn from the American Bar Association Foundation, private foundations, and/or local fellowship sponsors.
>
> NLADA could contract with the Kennedy School of Government at Harvard University to develop a special conceptually-oriented curriculum similar to the one that they offer to senior executives in government.

This program would be offered on an annual basis to selected leaders throughout the country initially on a paid fellowship basis, thereafter NLADA and/or local programs would raise monies to send individual leaders and managers.

Training in Interpersonal and Technical Skills

Legal services managers (including project directors, deputies, managing attorneys, and in some instances board chairpersons) make the critical difference in the success and adaptability of the programs they manage and lead. Past and current resources for training these individuals have been inadequate. Rather than start a separate leadership effort, the LDFP monies should be pooled to strengthen NLADA's new management development project. Among efforts which might be undertaken are:

More Whittle -- Interviews with legal services leaders revealed an unusually high acceptance of work done by Reed Whittle in the last several years. His training workshops and other similarly high quality products should be continued and/or expanded by the NLADA management and development project. Whittle's training focuses primarily on interpersonal and technical skills in ways which are highly applicable to the situations facing legal services managers.

Person-Focused Training -- The impact on the performance and leadership of law professors as a result of the training program offered by the Center for Law and Human Values makes that program an attractive candidate for pilot work for legal services managers. Professors Jack Himmelstein and Howard Lesnick* of Columbia Law School and NYU Law School, respectively, are the key actors in the Center's work. The focus of the Center's work is on the issues of role and identity and value conflicts. This training would be helpful to both managers and substantive leaders in legal services. Becoming a Lawyer, which is the text used in the Center's program, accompanied by a Memorandum Outlining Approach to a Pilot Effort.

Negotiation and Mediation Skills -- Given the current level of stress and the prospect of continuing and ongoing changes in programs, legal services leaders would benefit from training in negotiation and mediation skills. Two likely resources for this approach include Roger Fisher of the Harvard Negotiation Project, and Gary Friedman, who is a specialist in mediation associated with the Center for Law and Human Values. Again, technical skills would benefit both managers and substantive leaders and can be used both within programs and in work on behalf of clients. Fisher's popular techniques are detailed in his book, Getting to Yes.

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* Lesnick will soon join the faculty of the new Queens College of Law which is being headed by Charles Halpern and will focus on the development of public sector lawyers.

Training can be designed to meet a variety of ideological perspectives. It is a traditional intervention strategy in the system which is fraught with memories of failures and considerable poor quality training. The creation of an institute or a contract with a university for one which trains leaders in conceptual skills will be costly and will require additional resources after the first year, but these programs have proven beneficial to leaders in other sectors. The training in interpersonal and technical skills is even more traditional. Carryover on interpersonal skills training is problematic, but less so in technical skills. Both of these approaches could be linked to other NLADA management development efforts in ways which would likely strengthen both. The time frame on these efforts is likely to be medium to long term.

II. FACILITATE MAXIMUM ADAPTATION TO NEW SITUATION

1. Develop Transition Structures

As a result of the new federalism, continuing budget deficits, and rising conservatism among middle-class Americans, there are likely to be spill-over effects on legal services delivery for the poor. This strategy assumes that federal support will be lost or greatly reduced and that state support will be mixed and spotty at best. Because of this, NLADA should not focus on individual leaders and leadership roles, rather NLADA should use the LDFP monies to develop a variety of transition structures which will assist the poor during this period of massive change and crisis. Among the specific strategies it should consider are:

Public Interest Clinics -- Monies might be given to the Center for Law and Social Policy (CLASP) and/or other sources of coordination and support with the mandate that assistance be given to those groups of former legal services-advocates or others in the country who are attempting to set up low-fee or non-profit clinics. Assistance could include networking among innovators, loans for start-up capital, technical assistance, etc.

Poor People's or Public Sector Institutions -- Monies should be given to a variety of poor people's or public sector institutions in the hope that their work can be enhanced and expanded during this difficult period. Included would be groups like Acorn, National Welfare Rights Organization, etc. An additional candidate might be the new Queens College School of Law where key faculty and students could undertake national strategy planning, etc., which could be fed into other movement institutions. Charles Halpern will be the founding dean of the new college which is scheduled to open next year. He critically is interested in a merger between public interest and poverty law.

State Teams -- Another approach would be to follow one of several earlier plans for leadership development prepared by Bucky Askew, Deputy Director of LSC's Office of Field Services, which focused on developing multi-skilled state teams to assist in transition to the new federalism. While some of this work is already under way in states, additional work will be needed--particularly if there is no further federal money.

Alternative Dispute Resolution Projects -- There is considerable need to de-judicialize the legal system because it is too costly, inaccessible, time-consuming, and because it promotes dependency and powerlessness in clients--particularly among the poor. The LDFP monies should be used to accelerate the development of these mechanisms in key locations around the country. This might involve making a grant to an existing organization or group of key actors in this field to develop model legislation for target states and to work with local groups in those states to obtain passage of the legislation; fellowships for key legal services leaders to work with successful alternative dispute resolution projects already in existence in order to return to their own communities and import the best techniques; and/or developing a training program (road show) and coordinated site-visits for legal services and bar leaders from states most likely to adopt alternative dispute mechanisms. This work should be closely linked to the Ford Foundation project on alternative dispute resolution.

All of these techniques have a strong ideological orientation which is the empowerment of power people. The risks are high on some, the focus is long-term, and monies could be stretched too thinly. However, when risks are high, potential gains are great.

2. Improve Private Bar Participation

The private bar has been key to survival this year and will continue to be. NLADA should do whatever it can from its position in the legal services community to enhance the participation of private bar members and to gain their support for civil legal services for the poor. Therefore, the LDFP monies should be used to leverage additional support and participation from the private bar. Among the strategies that might be considered are:

> Private Bar Coordinators -- Bar associations in key states could be given funds for hiring private bar coordinators where they lack monies or there is general resistance.
>
> Innovations in Private Bar Involvement -- NLADA could sponsor programming for bar associations and bar leaders interested in innovations in private bar delivery and involvement in civil legal services for the poor. Particular emphasis might be placed on minority lawyers not involved in other LSC efforts.

This approach is on the right side of the ideological spectrum, could provide an almost immediate increase in services to the poor, and like would subsequently draw local funding support to sustain ongoing work. Thus the focus is both short and long term. Since it overlays with other grants made to LSC to both the ABA and to the Boston Bar Association's Volunteer Lawyer Project, close coordination with both would be essential.

3. Individual Leadership Fellowships

The legal services system is rife with individual, not collective, achievement. This is due to the loosely coupled nature of the system, to the training of lawyers, and to the client-lawyer relationship. Rather than attempt to remake or influence the system as a whole, fellowships should be offered to individuals who have proven or make compelling cases that they have the ability to make a difference within the system. Some of the strategies which might be considered are listed below.

> Fellowships for Minority Women in the Underclass -- The problem of the underclass in America is massive. It is complicated by the feminization of poverty and the fact that two-thirds of the low income households are headed by women. A heroic and risky strategy would be to identify some of the older and more mature women who are providing informal leadership in poverty communities and to support and strengthen their talents.

Assistance would include income supplements to allow them to work with other women who are trying to overcome the problems of the underclass, technical assistance in planning needed changes and developing strategies for managing those changes, and role experiences which might include visiting other communities, working with community leaders, and training.

Community Action Fellowships -- The war against legal services is being waged with a frontal assault by the Reagan administration. Now more than ever community action is needed to win the battle. There are probably only a few individuals who have the skills and the talents of them lack financial support to do this work as individuals and it is work which should not be done within the context of local programs. Individuals in key states could be identified and given fellowships to support their work for the next several years. In some cases these fellowships might be matched by a local organization or might include only expense stipends.

Fellowships for Substantive Innovations -- Many of the tools developed by legal services advocates over the past fifteen years are rapidly disappearing. They are disappearing either through restrictions on LSC grantees or through changes in the entitlement programs and other social services programs for the poor. Now more than ever we need advocates who can "work in new ways." Many of those have already been identified around the country, but they lack both connections to each other and freedom to do innovative work. There are a number of ways in which they could be supported:

(1) Key mentors could be provided fellowship subsidies to work with younger advocates; e.g., Ed Sparer at the University of Pennsylvania School of Law could be given a small subsidy which would allow him to provide individual advice and assistance to advocates working in new ways. The monies could cover Ed's telephone, materials and travel expenses.

(2) Individuals within programs who are creative innovators could be given partial salary stipends which would allow them to work with other advocates in other programs on a part-time basis; and/or

(3) Creative individuals could simply have all of their work supported with a mandate that they work on substantive innovations and that their strategies be disseminated through the legal services system.

Fellowships for Delivery Innovators -- Fellowships for delivery innovators could be handled in much the same way as those for substantive innovators. In some instances, people who were partially good in establishing alternative delivery systems teams could be paid a travel stipend to work in different locations all across the country for periods from one week to three months. Their task would be to find innovative delivery solutions to the problems in those communities and to assist in the implementation of those solutions.

For the most part of these techniques would push this strategy to the left side of the ideological spectrum. They have a mixed time frame--short, medium, and long-term benefits. The monies would not go too far, but with careful selection some individuals undoubtedly would be able to make a real difference in the lives of some of the poor.

4. "Think Pieces," Symposiums, and Conferences

The strategies for solving the current problems can be found--the problem is that people have not had enough time to think, analyze, and plan what new solutions might look like. With the dismantling of LSC's due to cutbacks, slack resources and time for thinking, analyzing and planning are in short supply. Therefore, NLADA should use the LDFP monies to commission a number of papers which could then be considered in both symposiums and conferences all across the country depending on their topic and utility. These think pieces could be produced by people within the system and/or people without the system. Many would argue that the insularity of legal services should be ended and that the resources in the external community should be drawn upon both for the think pieces and for participation in symposium and conferences. Among the specific strategies that might be considered are:

Aspen Institute Sponsored Assemblies -- The Aspen Institute has proposed convening individuals from all sectors of America to consider the problems of legal services for the poor. The Institute is well known for its high quality programs and has agreed that it would be willing to act as a neutral convener for the purpose of finding new solutions to legal services delivery problems. See Exhibit C for a better description of what Bob McKay and Alice Henkin who run the Aspen Institute's Program on Justice and Society would propose.

Peer Conferences -- Many feel that the resources within the community are the ones which should be tapped and that there are no experts either inside or outside legal services. Therefore, peers, leaders, and staff members who have the responsibility for solving the problems presented by the current crisis should be convened in conferences to consider papers and proposals. Some believe this approach should resemble the original Vail Conference held in the late 1960's.

Individual State Conferences -- The problems facing the poor are now being moved to the states. The key problem facing each state is how they will treat the poor. Each state is different and their responses to the New Federalism will also be different. Therefore, maximum adaptation to the new situation has to be planned for at the state level. NLADA should provide conference grants to legal services programs, client groups, and the local bar associations to convene key actors to consider solutions unique to their situation.

Each of these interventions is meant for the long term, but would need to be undertaken sooner rather than later if they are to affect the future. They are high risk in the sense that legal services follow through and carryover from efforts has not been good. It also would be difficult to track any impact in the system from this type of intervention. At the same time the strategy is part of the culture and could offer an opportunity to increase short-term cohesion while planning for the future. Ideological flavors would vary from conservative with the Aspen Institute to wide open with a "Vail Conference II."

III. REDUCE STEREOTYPING AND INSULARITY

1. Integrated Planning Conferences

Now more than ever legal services advocates need to engage in planning. Their history and experience with planning is not good, but they cannot abandon the future, rather they must experiment with new planning techniques. NLADA should facilitate this planning skills of participants, and second, develop possible strategies which might be adopted by states and programs. NLADA could convene these conferences itself and/or it can commission other institutions to convene planning groups. For example, it might want to use the Aspen Institute because of its prestigious status within the national community and its ability to draw in a broader spectrum of people. Another possibility would be to use the Center for Law and Human Values to work with key legal services leaders on the issues of resistance to planning and the problems they face in broadening participation in the planning efforts, or NLADA might want to work with the ABA to build on the round of regional and consortium meetings which have been staged in the last six months.

This approach is similar to other proposed strategies. It would be distinguished by design differences which would seek to heighten the awareness of all participants to the distortions and costs of stereotyping and insularity. It would confront all ideologies and thus perhaps escalate conflict. The key would be in hiring very expert facilitators and in developing designs which are manageable. The implementation time frame is short, the impact would come later.

2. Rotating Fellowships and/or Sabbaticals

The sources of stereotyping and insularity are individuals and can only be broken down by individual experience. Therefore, NLADA should use the LDFP monies to facilitate rotational experiences for leaders from legal services, the private bar, and client organizations. These fellowships might be as short as a week or as long as a year. They would be designed to increase the interaction among these three groups. For example, a law firm in developing a pro bono capability within that firm. Simultaneously, a private practitioner from that same firm might be assigned to work in the development of practice skills with a small unit within the program. A special experimental program for private bar leaders might be developed which permitted them to spend a day with a low income family seeing firsthand the problems they face and then working with the local agencies to devise solutions to those problems.

Materials might be developed which would reduce stereotyping in the system. For example, filmstrips and videotapes showing advocates at work with clients could be used for increasing the information of private practitioners about legal services work. Existing films which reveal the difficulties facing the poor could be catalogued and brought together or portions of them assembled in ways which dramatically illustrate the dilemmas of the poor. These could be used to educate both the general public and the private bar.

Where relationships among various groups are particularly problematic, NLADA could stage clarification conferences with the assistance of outside facilitators. The groups would be assisted in the working through of their stereotypical perceptions of each other and helped to achieve some agreement on how to work together in the future.

Of all goals proposed, the one to reduce stereotyping and insularity seems the least connected to the current reality. It is not that the system is not over-politicized, it is. Rather, focusing on this aspect of the legal services all dilemma seems to some a bit like playing the fiddle while Rome burns. Others see a desperate need for this type of intervention into the system. The results of the rotating fellowships and informational strategies will be hard to track, but they could provide short, medium, and long term benefit.

IV. STRENGTHEN EXISTING INFRASTRUCTURE

1. Individual Fellowships

Once again, given the track record of individuals achievement in the legal services system, the focus of the NLADA effort should be on individual leaders. Because the current infrastructure lacks a sufficient number of minorities and the shortage is particularly acute in top leadership roles, individual fellowships should be targeted for minorities in staff national leadership programs could provide excellent leadership fellowship experiences. They are the National Urban Fellowship Program and the National Rural Fellowship Program and under the supervision of mentors working in related fields. The National Rural Fellowship Program offers a masters degree in rural planning in combination with the fellowship by providing an intensive eight-week summer program at the University of Massachusetts. The cost of a single fellowship, including salary stipend, travel expenses, educational experience, and administration is about $34,000 per year.

Similar fellowships could be offered to emerging leaders of all races and sexes based on their performance in the system to date and their likely roles in the future. Rotational fellowships which gave emerging leaders the opportunity to work in a number of legal services settings with the mentoring of existing leaders could be powerful developmental experiences. Individual fellows could be brought together before, during, and after their fellowships to share experiences and consolidate their learnings. This approach would model the White House Fellowship Program to some degree, although rather than spending a year in Washington, the fellow would more likely spend a quarter there, a quarter in Micronesia, a quarter in Chicago, and a quarter in Mission, South Dakota.

Fellows who have participated in all these programs and others attest to their value and the significance their fellowship experiences had on their lives and careers. In this regard, the individual fellowship approach is relatively risk free. Depending on the ideology of those selected, it could have a basis almost anywhere in the spectrum. Clearly its focus is medium or long term. Implementation could begin this year or next and techniques could be tailored to the outcome of the 1982 battle with the Reagan administration.

2. Intervention in Bellwether Programs

As California Rural Legal Services (CRLA) goes, so goes the world. Because of this, NLADA should identify the key Bellwether programs in the legal services system and use the LDFP monies to provide the intervention assistance to those programs in making the adaptation to the changes coming. This assistance could range from expert fundraising help, hiring experienced lobbyists and legal counsel, individual consultation help for managers and staff, technical assistance in reorganization, etc. The idea is to heighten the capacity of the symbolic programs to survive the current crisis and to provide energy and hope for other programs. Work done on these programs should be documented and shared with the full community.

This is a very high risk strategy, although twenty-five programs could be helped with $20,000 intervention grants. The selection of programs would generate lots of sibling rivalry and it is likely that some programs would not want or resist attention and assistance. The time frame for implementation is now--the impact short, medium and long term. If programs like CRLA and Northeast Ohio Legal Services (NOLS) which is headquartered in Youngstown and which also houses Staughton Lynd, are selected, ideological issues will be omnipresent.

3. National Orientation Program

The current system is extremely vulnerable to both the successes and failures of individual advocates working in individual programs. Whether an advocate is new to the legal services system or has been working in it for many years, he or she can benefit from a thorough analysis of the history of civil legal services for the poor. While it is hard for most civilizations and societies to learn from history, it is not as difficult for individuals to learn from it. A historical orientation can broaden one's perspective, help one understand how he or she fits into the legal services system, and generate ideas and solutions to new and emerging problems. The leadership monies should be used to create standard orientation programs based on a historical analysis of the legal services movement which will instill a sense of mission in staff, clients, and key external supporters. Several believe legal services should have a national orientation program which is similar to a military model and results in the indoctrination of those who pass through it.

To do so, NLADA might contract for the production of a professional film which covers the historical development of the movement and instills a sense of pride and mission in viewers. It could also arrange to stage well-designed orientation sessions for staff from all over the country on a quarterly or annual basis which draw on the best group process techniques in exposing new staff to the history, mission, and actual heros and heroines in the movement. These orientations could be staged at low cost campsites or universities and include skill building events as well. Alternatively, NLADA could create a videotape/handbook orientation package for individual use in individual programs and communities.

This strategy assumes that if a strong national orientation program or package was developed, local programs would choose to use it. There are risks here given the conservative political climate and many project directors might avoid the risk and choose to keep their staff at home. A high quality self-contained package could easily be prepared with current resources. Staging or actually producing ongoing orientation sessions is more problematic although if the initial pilot sessions are of the quality they should be, they could likely be supported by small user fees thereafter. Selection of an ideological approach is the key factor in this instance. ✓

4. Sabbaticals

The current crop of legal services leaders is by and large psychically and physically exhausted. Many of them are planning to leave the system in search of rest and respite from the pressures which they have been under for the last several years. Loss of their expertise and experience will hurt the system in the ways it has always hurt the system. NLADA can make a key intervention right now by providing sabbatical support for key leaders in exchange for their promise to return to service after a year's planning and rest. Simultaneously or alternatively, NLADA should do what it can to alleviate the person-power shortage with regard to experienced mentors within the system. It can do this by providing modest sabbatical grants for experienced practitioners and other experts from the private sector work in programs that are particularly short of experienced staff and have potential for developing inexperienced staff skills.

The problem with the first aspect of this strategy is that large segments of the staff community would resist it and the leaders may not be restorable. This is because the capacity to destroy through criticism has achieved an advanced state of development in legal services. The mark of merit among staff is to cut leaders down to size, to blame, to demolish those whose views are not identical with one's own. "You hack away at me and what I stand for, and I'll hack away at you." The result: a landscape littered with mutilated leaders and razed programs. Nothing admirable, nothing alive except the insatiable zest to destroy, dissect and demolish, nothing left standing except some outsized critical egos. While the external threat has reduced the level of this type of behavior, it has not eliminated it. Whether departing leaders would want to come back is the first question. The second is whether temporary stand-ins could be recruited and then whether they could handle the task.

The importance of skilled mentors also raises the question of how they will be received and treated. They are a rare breed in any system and firms that have them would undoubtedly be reluctant to let them go. Others would argue that the legal services system must build its own mentors and that short-term importation only circumvents the problem.

Nonetheless, where good leaders can be found and renewed by sabbaticals and where good private sector mentors can be borrowed, efforts should be made if NLADA chooses to strengthen the legal services infrastructure.

* * *

STUDYING LEADERSHIP IN A TIME OF TRANSITION

As Ms. Lieberman was conducting her interviews and analyzing the data she collected, the Legal Services Corporation was changing significantly. The Congress of the United States was considering legislation to reauthorize the Corporation with various new restrictions, the President of the United States made recess appointments to the Board of the Corporation, an Acting President for the Corporation was appointed to replace Dan Bradley, and the future for the Legal Services Corporation appeared uncertain.

The Lieberman Report was widely circulated in the Legal Services community both to persons associated with NLADA as well as persons outside the Association who have an interest or expertise in the subject.

More than a hundred Legal Services persons and others commented on the Lieberman draft, and it was the subject of extensive discussion at NLADA's Civil Committee meeting on July 31, 1982 in Atlanta, Georgia and at the Board of Directors meeting the day that followed. There was significant concern expressed throughout the discussions and community review that whatever Leadership Project be established be consistent with the political, substantive, and structural context of Legal

Services at the time. This might well require a more flexible approach to leadership than had been originally envisioned when the project was requested by the Association. While the primary vehicle identified was a leadership institute, it was recognized that future developments might require an alternative approach.

For these reasons, the Association determined that various steps would be taken to establish the program in early 1983 so that it might respond to the immediate needs of the community.

WORK PLAN FOR 1983

The Leadership Project will be under the exclusive direction of the Executive Director and Civil Director of the National Legal Aid & Defender Association. Initially, a Project Director will be hired in early 1983 to coordinate the comments received by the field and to establish the initial programming for the project. The specific substantive programming for the project will be limited to those areas identified by the field as set forth in pages 10 through 26 of this report and as finally determined by the Executive and Civil Directors of NLADA in consultation with an advisory board to be appointed by the President of the National Legal Aid & Defender Association early to mid-1983. This Board will have the sole discretion to recommend the substantive programming for the project to the staff. NLADA will provide annual substantive reports to the Legal Services Corporation as well as complying with all of the fiscal requirements of the Legal Services Corporation. The Policy Board and this project, however, is entirely independent of the Corporation and its staff for the purpose of any substantive activity undertaken.

In coordination with the staff of the Legal Services Corporation during the summer of 1982, the following time lines and milestones were established by the Executive Director and Civil Director of NLADA:

March 1, 1983	PROJECT DIRECTOR HIRED BY EXECUTIVE DIRECTOR OF NLADA
March 1, - April 30, 1983	PROJECT DIRECTOR ASSESSES PRESENT STATUS OF LEGAL SERVICES AND MAKES RECOMMENDATIONS FOR IMPLEMENTING LEADERSHIP STRATEGY IN VIEW OF LIEBERMAN REPORT AND CONSEQUENT POLITICAL DEVELOPMENTS
April 1, - May 1, 1983	PRESIDENT OF NLADA APPOINTS ADVISORY OR POLICY BOARD AND CONVENES FIRST MEETING
June 1, - Sept. 30, 1983	FIRST PRIMARY SUBSTANTIVE ACTIVITIES OF LEADERSHIP PROJECT COMPLETED WITH REPORT SUBMITTED TO ADVISORY BOARD
Sept. 1, - Dec. 1, 1983	DECISION REGARDING LONG-TERM FUNDING STRATEGY FOR LEADERSHIP PROJECT INCLUDING THE POSSIBILITY OF SEEKING ADDITIONAL FUNDS FROM THE LEGAL SERVICES CORPORATION, SEEKING PRIVATE SOURCE FUNDING, FOLDING PROJECT INTO PRIMARY NLADA ACTIVITY, OR SCALING DOWN ACTIVITY FOR TERMINATION
Nov. 1, - Feb. 28-29, 1984	SECOND PRIMARY SUBSTANTIVE INITIATIVE OF LEADERSHIP PROJECT

BUDGET

In its initial year of operation, the primary funds spent for the project were the payment to Ms. Lieberman for her work as well as the cost of duplicating and distributing the substantial Leadership Report to broad segments of the Legal Services community. It is anticipated that as of January 1, 1983, between $300,000 and $350,000 will remain of the project for future expenditures.* NLADA has agreed to take no overhead charges from this grant beyond 1982, although direct costs attributable to the project will be allowed.

The following is an approximate breakdown of the anticipated expenditures for the project:

January 1, - June 30, 1983:	$50,000.00
July 1, - December 31, 1983:	$150,000.00
January 1, - June 30, 1984:	$150,000.00

The specific expenditures will be determined, of course, by the strategies adopted by the Policy Board and Project Director. If the strategy involves the convening of an institute at set times within the period, expenditures will be highly concentrated. If, on the other hand, the strategy is a longer-term intervention, expenditures will be spread more evenly throughout the period. It is anticipated that the project will utilize one full-time director and one support person, although partial staff, part-time staff, and consultants may be utilized to expedite the efficient completion of the specific strategy determined.

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* A complete financial report will be submitted to the Legal Services Corporation following the close of the 1982 fiscal year on December 31, 1982.

CONCLUSION

The initial year of the Leadership Project has produced an outstanding document regarding leadership alternatives in the Legal Services community today. This document has been developed through extensive interviews with a broad group of persons and has generated comments and discussion within the community generally. Through the development of this work, its circulation, and subsequent comment, the project has developed a cohesive notion of leadership within the Legal Services community.

In a time at which programs face possible termination, reduction in funding, and restrictions in the type and manner of delivery, leadership must remain a flexible concept so that this project can best meet the needs of the Legal Services community.

Beginning in early 1983, the project will begin to develop substantive strategies inasmuch as a period of more relative stability is anticipated than has been present during the past twelve months. It is the commitment of NLADA to produce the type of project which meets best the needs of the community under the direction of an independent Policy Board supervised by the Executive Director and Civil Director of NLADA.

RECIPIENT FUNDING HISTORY

LSC RECIPIENT NO. 309042 (OLD LSC NO.) 500504 (CSA NO.)

RECIPIENT NAME National Legal Aid & Defender Assn./Access to Justice Proj

AWARD DATE	ACTION NO.	GRANT		ANNUALIZED AMOUNT	PERIOD COVERED	GRANT AMOUNT
		TYPE	PURPOSE			
3/30/76	76-01	NS	Interim Funding	- - - -	7/1/76 - 6/30/76	75,027
7/12/76	76-02	OT	Termination Funding Salaries & Fringe benefits of 3 employees	- - - - - -		4,326.85
			Total FY 76			79,353.85
4/27/79	79-01	N.S.	Contract	50,000	1/1/79-12/31/79	50,000
			Total FY 79	50,000		50,000
12-18-79	80-01	N.S.	Contract Extension	50,000	1/1/80-12/31/80	50,000
		COS	6%	3000	1/1/80-12/31/80	3,000
				53,000		53,000
2-22-80	80-02	NS	Contract Extension	500	1/1/80-12/31/80	500
			Total FY 80	53,500		53,500
6-3-81	81-01-01	NS.	Contract	53,500	1/1/81-12/31/81	53,500
	81-01-02	COS	6%	4,050	1/1/81-12/31/81	4,050

NOTES:

RECIPIENT FUNDING HISTORY

LSC RECIPIENT NO. 309042 (OLD LSC NO.) 500504 (CSA NO.)

RECIPIENT NAME National Legal Aid & Defender Asso./Access to Justice Project

AWARD DATE	ACTION NO.	GRANT TYPE	GRANT PURPOSE	ANNUALIZED AMOUNT	PERIOD COVERED	GRANT AMOUNT
	81-01-03	N.S.		14,000	1/1/81-12/31/81	14,000
	81-01-04	COL-OT	2%	—	—	1,350
				71,550		72,900
6/3/81	81-02-01	OT	Indirect costs adjusted for FY80			45,166
		OT	Indirect costs FY81			82,133
6/16/81	8103-01	OT	Development of a new law firm resource project			2,500
9/11/81	81-04-01	OT	National Support			45,000
9/28/81	81-05-01	TA	management & TA, leadership development, Develop [illegible] & Produce library manual	1,235.000	9/28/81-12/31/81	411,667
			Total FY 81	1,396,550		456,667
12-10-81	82-01-01	OT	Tech. Assist.			250,000
	82-01-02	OT	Mgmt development and assistance			300,000
	82-01-03	OT	Standard Development			15.000

NOTES:

RECIPIENT FUNDING HISTORY

LSC RECIPIENT NO. ______________ (OLD LSC NO.) ____________ (CSA NO.) ____________

RECIPIENT NAME ____

AWARD DATE	ACTION NO.	GRANT TYPE	GRANT PURPOSE	ANNUALIZED AMOUNT	PERIOD COVERED	GRANT AMOUNT
	82-01-04	07	Technical assistance to Corporation programs for training in private bar delivery			140,000
						705,000
12/21/81	82-02-01	07	To Convene Advisory Board of Access to Justice Project			5,000
—			Total FY 82	1,396,550		710,000

NOTES: ____

The **Chairman**. As I understand, NLADA has submitted to the Corporation at least two financial audits which include their handling of these grants. Have you reviewed these audits and, if so, did they indicate what activities the grant moneys were being used for?

Mr. **Bogard**. Mr. Webber has been involved in reviewing——

The **Chairman**. Mr. Webber? Happy to turn to you.

Mr. **Webber**. Senator, I reviewed the 1981-82 CPA audits, and the funds from the grant were primarily spent on such items as salaries, fringe benefits, consulting fees, subgrants, awards—it's a typical P&L statement as far as miscellaneous expenses.

According to the 1982 audit, the NLADA had $1.1 million of the LSC grants remaining.

The **Chairman**. What did they use it for?

Mr. **Webber**. Oh——

The **Chairman**. Did they use it for their own overhead, or what?

Mr. **Webber**. In reviewing the statements, there were a number of items that I listed because they were rather unusual. One constituted an overhead allocation in 1982 of $344,000 of LSC grant funds to the association unrestricted line item.

Another item on the CPA report involved interfund receivables payable. This indicates that they have loaned, within their organization in 1982—excuse me, Senator—in 1982, LSC interfund receivable was $248,000. On the other side of the balance sheet, the unrestricted association account indicated a payable of $249,000. This raised a question with me as to why they were loaning LSC funds back into the association line item.

The **Chairman**. I see.

Mr. **Webber**. Another item that I noticed was that LSC grant funds are being invested in uninsured accounts, which is contrary to the audit guidelines of LSC.

There were also consulting fees, which we normally look at; and, as I previously mentioned, a subgrant award in 1982 of $119,000.

These are some of the items that I would recommend that the Corporation look into.

The **Chairman**. Were these items used for this leadership project for which the grant was made?

Mr. **Webber**. You can't tell that from the audit report.

The **Chairman**. But it looks like some of them were used, a significant amount was used for overhead?

Mr. **Webber**. The 1982 financial statement indicates that approximately 50 percent of their total operating budget came from LSC funds, so there could be a presumption or concern that LSC funds are being used for that type of activity.

The **Chairman**. Well, let me ask you this question: Are you saying that the only way that they were able to operate was due to the funds that they received from the Legal Services Corporation?

Mr. **Webber**. It looks like that. At least 50 percent of their total operating budget in 1982 appears to have come from LSC funds.

The **Chairman**. Under existing law what recourse do you have available to the Corporation to force the NLADA to allow you to monitor the grants it has received from the Corporation? I mean, my gosh, there's got to be a way to get an accounting. I see millions and millions of dollars spent all over the Federal Government that nobody ever seems to account for. Can you tell me what recourse you have, Mr. Opsut?

Mr. OPSUT. Under existing regulations of the Corporation and the act, there is very little for the Corporation to be able to do against NLADA or to find out——

The CHAIRMAN. You can't even audit those companies and see whether they misused those funds and pursue criminal actions if necessary, or civil recovery actions if necessary?

Mr. OPSUT. We have no criminal penalties under our Act.

The CHAIRMAN. Well, you can make criminal charges.

Mr. OPSUT. We could do that.

The CHAIRMAN. You can also seek redress civilly, can't you? You're attorneys?

Mr. OPSUT. We could go to civil court. But under the act and the regulations, there's nothing provided for——

The CHAIRMAN. Well, is anybody doing anything to get the doggone accountings here?

Mr. BOGARD. Yes, sir. As a matter of fact, we're taking a look at that right now. As we indicated, we've tried several times to schedule monitoring visits with NLADA. We've given——

The CHAIRMAN. Unless you take overt legal action, they're just thumbing their noses at you.

Mr. BOGARD. That's correct.

The CHAIRMAN. They're just telling you to go to hell.

Mr. BOGARD. That's correct. We're investigating what recourse we have right now.

The CHAIRMAN. Here's over $2 million of the taxpayer's money and not one doggone thing to show for it. Not one piece of paper to show for it. Is that right?

Mr. BOGARD. I believe that's correct.

The CHAIRMAN. Well, I suggest you go after that. You ought to at least get an audit and find out just exactly what happened with those funds. If they haven't done what they should have done, there ought to be funds brought back to the Government, and perhaps even criminal activity ought to be looked into.

Mr. BOGART. I agree.

The CHAIRMAN. They can't just take these funds and just use them as their own; there's supposed to be some benefit come from them to the Corporation and to the poor out there.

Mr. BOGARD. I agree, Senator, and——

The CHAIRMAN. Will you do that?

Mr. BOGARD. Yes, sir. You can rest assured we will.

The CHAIRMAN. Well, I'm going to follow up on it. I think you ought to move heaven and earth. I wouldn't let anybody take this kind of money and not account for it. I just don't think that's right. Now, they may have some explanations, but from what you're giving me, there's some real questions about any explanations they could come up with. Wouldn't you agree?

Because the grants were given out in lump sum at the outset, and because the normal auditing requirements were waived, I think it's going to be extremely difficult if not impossible for the Corporation to ascertain just what actually has happened to these funds. Do you agree with that?

Mr. BOGARD. Yes, sir.

The CHAIRMAN. Well, to the best of your understanding, was the disbursement of these grants a typical practice at the Corporation, or was that just unique to a series of grants that were given toward the end of fiscal year 1981?

Mr. BOGARD. I think it was unique to that situation.

The CHAIRMAN. You've corrected that type of grant process under your administration?

Mr. BOGARD. Yes, sir, we certainly have.

The CHAIRMAN. You were just as much as told, "I made the grants," Mr. Lyons said, "and you just keep your nose out of it?"

Mr. POTACK. I was going to go into the other correspondence that we have, but I will briefly just summarize by saying that from January 27 to March 26 or 27, we have gone back and forth and rescheduled this matter four different times until we finally got our last no on March 27.

I think another point that has to be brought out here is that on March 23, when they responded, we were still at the same point as we were 3 months before; that is, we've got to negotiate the terms and conditions of the monitoring. They were talking in some of these letters about the fact that they were upset that they didn't have a right to consent to the team members that visited. But finally, on March 23, we hadn't made any progress, I don't believe, whatsoever.

And then there is this comment in a letter, and if I could, I'd just like to read this one sentence, which is:

> Further, NLADA has delayed asserting claims that it may have under the appropriation language attached to Public Law 98-116 because we are now attempting to reach some cooperative clarification of the issue of status with LSC. Apparently, NLADA's position on this issue will have to be affirmed in another forum.

I think they're not only, as you state, Senator, thumbing their noses at us, but there's a veiled threat here that, under the affirmative rider and the recent decisions by Judge Barrington Parker, that they may come after us for another $2.2 million, or at least the $1,935,000 for those management and technical assistance, private bar training, leadership development and standards that were in those two grants and that were—that we gave them in a matter of 2 months in 1981.

And I think another interesting thing about those grants at that time is that, from the time of the solicitation until the time the first award went out for $1.2 million, it was only a matter of a couple of weeks. They hadn't even spent any of that money and, in fact, in the proposal that we received from Howard Eisenberg at that time, who was the Director of NLADA, he indicated that the amount requested, $650,000 for management and technical assistance, should be enough to complete the project; yet, within a couple months after that, people at the Corporation are putting together another $705,000——

The CHAIRMAN. This is the most incredible thing I've heard in a long time with regard to legal services, and maybe with regard to almost anything else. Basically you're saying—was it Mr. Benjamin Lerner who was the President of the NLADA who wrote this letter?

Mr. POTACK. Yes, it was.

The CHAIRMAN. Basically what you seem to be saying is that they've delayed asserting claims that they may have under appropriate language attached to Public Law 98-166 because they've been attempting to reach some cooperative clarification of the issue of status with the LSC. And they're basing their approach here on what Judge Barrington Parker said; right?

Mr. POTACK. That's correct.

The CHAIRMAN. Their claims, based on a recent decision by Judge Barrington Parker which interpreted H.R. 3222, Public Law 98-166, specifically, the Weicker amendment, as holding that all those who receive not just grants, but also contracts in previous years, must receive similar grants and contracts in 1984; is that right?

Mr. POTACK. That's right.

The CHAIRMAN. No matter whether they accounted for it, no matter whether they cooperate, no matter whether they meet the requirements of the agency or not?

Mr. POTACK. That's correct. Even if it was a one-time grant for a specific purpose——

The CHAIRMAN. That's got to be the dumbest judicial ruling I've ever heard of. And maybe it's our fault for allowing the Weicker amendment to exist; but we, as you know, didn't have the votes to stop it.

Even with the Weicker amendment, I can't see any way that a court of law can interpret that, that you've got to automatically keep funding people that won't agree to live up to the regulations, won't agree to audits, won't agree to give you the information you've got to have. Better than $2 million were at stake in this instance.

Mr. POTACK. Senator, I was the project director before I came here a few months ago; I was the director of Wisconsin Judicature for 5 years, and I've been in legal services for over 8 years. This is the worst example I've ever seen of nonreporting where they apparently can get away with it.

The CHAIRMAN. What Parker's decision basically says is, regardless of the merits, regardless of what happens here, those who received the grants in 1983 will automatically be entitled to receive grants in 1984 unless the Board of Directors for the Corporation was approved by the Senate. Now, that's got to be the most ridiculous, dumbbell decision that I've ever heard of in my life.

Mr. BOGARD. Even if they didn't receive the grant in 1983, if they received a grant that allowed money to be expended in 1983, they're entitled to more money—the same amount of money, plus 14 percent increase.

The CHAIRMAN. I guess my question has to be, what happens if you complied with that and you gave them another $2.2 million? Tell me. Chapter 11, maybe?

Mr. BOGARD. We don't have it.

The CHAIRMAN. You're saying the Legal Services Corporation would go bankrupt if you had to abide by that ruling?

Mr. BOGARD. If everyone that would fall into that category would come forward and say, "According to the decision by Judge Parker, we're entitled to increased funding for this year," we could be required to expend anywhere from $3 million to $30 million or $40 million more than we have.

The **Chairman**. Well, let me put in the record—you've got a copy of the court's opinion. Let's put that in the record as Bogard document No. 3, and then let's put the Lerner letter in as Bogard document No. 4.

[Bogard documents Nos. 3 and 4 follow:]

Bogard Doc. #3

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MASSACHUSETTS LAW REFORM INSTITUTE, *et al*.,)
Plaintiffs,)
v.) Civil Action No. 84-190
LEGAL SERVICES CORPORATION, *et al*.,)
Defendants.)

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MEMORANDUM OPINION

Before

Barrington D. Parker
United States District Judge

Entered: February 27, 1984.

APPEARANCES

For the Plaintiffs:

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MASSACHUSETTS LAW REFORM INSTITUTE,)
INC., *et al.*,)
Plaintiffs,)
v.) Civil Action No. 84-190
LEGAL SERVICES CORPORATION,)
et al.,)
Defendants.)

MEMORANDUM OPINION

Barrington D. Parker, District Judge:

Introduction

In this proceeding, four state legal services centers seek to enjoin the Legal Services Corporation ("LSC" or "Corporation") from refusing to renew the centers' regional training grants for 1984. These plaintiffs receive grants from the LSC for the purpose of providing a variety of support services to local legal services programs. As one aspect of this support, the plaintiffs operate regional training centers which provide training and related services. These services contribute to the effectiveness of the local legal services programs and thus are of value to legal services clients.

The plaintiffs argue that the Corporation's decision not to renew their training center grants is contrary to the recently enacted appropriations measure, Pub. L. 98-166 (Findings of Fact ¶5, infra), and violates the procedural provisions of the Legal Services Corporation Act of 1974 ("LSCA" or "Act"), 42 U.S.C. § 2996 et seq. Specifically, the plaintiffs argue that the appropriations measure requires the Corporation to increase the funding for their training center grants, and that in any event, they are entitled to hearings before their funding may be terminated. They also argue that the Corporation has breached 1981 grant agreements with the plaintiffs.

On January 20, 1984, this Court entered a temporary restraining order which required the Corporation to maintain a segregated account for the benefit of the plaintiffs, and to pay the plaintiffs a proportionate share of those funds. The Court renewed the order on January 30, 1984, and on February 10, 1984, the order was extended with the consent of the parties until the Court rules on the plaintiffs' motion for a preliminary injunction. The third order is similar to the earlier ones with the exception that the Corporation was unwilling to continue to make payments from the account.

The legal memoranda, affidavits, depositions, oral argument of counsel, and the entire record have been fully considered, and the Court finds that the plaintiffs have met the requirements for the requested equitable relief. Accordingly, a preliminary injunction should issue. The findings of fact and conclusions of law supporting this determination are set out below.

FINDINGS OF FACT

1. Prior to the Corporation's challenged action, the plaintiffs--the four regional training centers[1]--had received grants for training activities since September of 1981. These grants were first issued by letter on or about September 21, 1981,[2] and were made pursuant to sections 1006(a)(1) and (3) of the Legal Services Corporation Act of 1974, 42 U.S.C. § 2996e(a)(1)(B),

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[1] The four plaintiffs are the Massachusetts Law Reform Institute, Inc. (Northeast Regional Training Center), Legal Services of Arkansas, Inc. (Southeast Regional Training Center), Legal Services Organization of Indiana, Inc. (Midwest Training Resource Center), and Colorado Rural Legal Services, Inc. (Western Regional Training Center).

[2] The September 1981 grant agreements are attached as exhibits to the affidavits of Gilbert Glover (Executive Director, Legal Services of Arkansas, Inc.) (Exhibit 2), Allan Rodgers (Executive Director, Massachusetts Law Reform Institute, Inc.) (Exhibit 1), Israel Galindo (Executive Director, Colorado Rural Legal Services, Inc.) (Exhibit 1), and Norman Metzger (Executive Director, Legal Services Organization of Indiana, Inc.) (Exhibit 2). All of these affidavits were filed on behalf of the plaintiffs on January 19, 1984. The affidavits and depositions filed in this proceeding are referred to by the name of the affiant or deponent and the relevant portion of the document. The title of the affiant or deponent and the date of filing are cited in the initial reference to each document.

(3)(B).[3] In each case, the grants were made from fiscal year ("FY") 1981 funds for a "minimum of 12 months," and each grant stated that the LSC "anticipate[s] that additional funds will be available during the 1982 fiscal year." Special grant condition No. 12 provided that:

> In the event that the Corporation's Congressional appropriation is not sufficient to enable the Corporation to renew this grant, at least sixty (60) days before the end of the grant term, the Corporation will notify the grantee that it does not intend to renew this grant.

2. The defendants are the Legal Services Corporation and Donald Bogard, the president of the Corporation and its chief executive officer. The LSC is a private, nonprofit corporation created "for the purpose of providing financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance." 42 U.S.C. § 2996b(a). The Corporation is specifically authorized to fund "training and technical assistance" programs. See n.3, supra.

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[3] Section 2996e(a)(1)(B) authorizes the Corporation to:

> make such other grants and contracts as are necessary to carry out the purposes and provisions of this title.

Section 2996(e)(a)(3) authorizes the Corporation to:

> undertake...by grant...the following activities relating to the delivery of legal assistance [including] (B) training and technical assistance.

3. The LSCA provides that the Corporation shall be governed by an 11-member board of directors, appointed by the President of the United States with the advice and consent of the Senate. 42 U.S.C. § 2996c(a). At present, a full board of directors has not been confirmed by the Senate.

4. By letter of December 1981, the Corporation extended the September 1981 grant agreements in two separate contracts with the plaintiffs. In each case, the smaller of the two grants was for the period January 1, 1982 to December 31, 1982, *see*, *e.g.*, Rodgers Affidavit, Exhibit 2, and the larger grant was for the period October 1, 1982 to December 31, 1983.[4] *Id.*, Exhibit 3. The funds obligated for the later period were not carryover funds from previous years, and were specifically targeted for the operation of the training centers for the last three months of

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[4] Although the grant letters stated that the funds were for a two-year period, special grant condition No. 1 attached to the grant letters barred the expenditure of those funds prior to October 1, 1982. Thus, the grants were intended to apply to the 15-month period from October 1, 1982 to December 31, 1983. The December 1981 grant agreements are attached as exhibits to the affidavits of Glover (Exhibits 3, 4), Rodgers (Exhibits 2, 3), Galindo (Exhibits 2, 3) and Metzger (Exhibits 3, 3A).

1982 and all of 1983.[5] The grant agreements also cautioned that the grants "are awarded on a non-recurring basis and do not affect [the centers'] annual funding level" and that a decision not to renew the grants would not "constitute a denial of refunding within the meaning of section 1011 of the Legal Services Corporation Act," 42 U.S.C. § 2996j.

5. On December 21, 1982, Congress amended the LSC appropriations for FY 1983 by attaching an affirmative rider to a funding measure. The rider required that all current grantees receive 1983 grants equaling their 1982 grants, unless contrary action was taken by a legally confirmed board of the Corporation. H. J. Res. 631, Pub. L. 97-377, 96 Stat. 1830, 1876 (1982). Nearly identical language has since appeared in two subsequent continuing resolutions, Pub. L. 98-107, 97 Stat. 733, 739 (1983) and Pub. L. 98-151, 97 Stat. 964, 973 (1983), and most recently was incorporated for a fourth time in the FY 1984 Appropriations Act for the Departments of Commerce, Justice, State, the Judiciary and Related Agencies, Pub. L. 98-166, 97 Stat. 1071, 1088 (1983).

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[5] The centers' fiscal year is synonymous with the calendar year for the purpose of receiving grants from the Corporation. See Memorandum of Plaintiffs in Support of Application for Temporary Restraining Order at 13 n.1, filed Jan. 18, 1984; Metzger Aff. at ¶5.

6. In September and October of 1981, LSC staff members and consultants visited the training centers to evaluate their activities, and subsequently discussed the performance of the centers in draft monitoring reports. The defendants admit that two of the training centers have excellent programs (Midwest and Western), the performance of the third is at least satisfactory (Northeast), and the fourth is substantially less effective (Southeast). Declaration of Gregg Hartley (Director, LSC Office of Field Services) at ¶48, filed Jan. 20, 1984; Hartley Dep. at 89-90, filed Feb. 15, 1984.

7. In October of 1983, the training centers submitted applications for refunding of their training center activities to the Corporation. Shortly after these submissions, Gregg Hartley, the Director of the LSC Office of Field Services, wrote letters notifying the plaintiffs that:

> Pursuant to the original grant award, Condition #12, this is notification that the Corporation will not renew your grant.[6]

Condition No. 12, as previously discussed, stated that the Corporation could refuse to renew the plaintiffs' grants on the basis of insufficient funds. See supra at 4. In addition, the letters explained the consequences of the LSC action:

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[6] Glover Aff., Exhibit 5; Rodgers Aff., Exhibit 5; Galindo Aff., Exhibit 5; Metzger Aff., Exhibit 7.

> Your organization should begin to phase out the related grant activities including minimizing expenditures between now and the end of the year. A final audit will be required as of December 31, 1983...
> Any unused grant funds must be returned to the Corporation no later than January 31, 1984.[7]

The decision to deny the plaintiffs' refunding was not based on a determination that their performances were inadequate. Hartley Dec. at ¶35, Hartley Dep. at 90-91. The LSC has taken no action on the plaintiffs' applications for refunding, Hartley Dep. at 62-64, and has denied the plaintiffs the right to hearings on the decision not to renew their grants.

8. At the time Hartley prepared the October 1983 letters, he was aware that the LSC possessed more than $5 million of surplus funds for expenditure in FY 1984, Hartley Dep. at 65-66, which would be supplemented by Congressional appropriations for FY 1984. The Corporation received FY 1984 appropriations in the amount of $275 million, a 14.1 percent increase over its 1983 appropriations. Pub. L. 98-166. The Corporation currently has approximately $6 million in surplus funds, more than $4 million of which are available for expenditure in FY 1984. Hartley Dep. at 65-69, Exhibit 10 at 19, 21, Exhibit 11.

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[7] The defendants have recently retracted their demand that the plaintiffs return unused grant funds to the Corporation. Transcript of Hearing on Motion for a Preliminary Injunction ("Transcript") at 36-37, filed Feb. 14, 1984.

9. a. The Northeast Regional Training Center received a $40,000 grant from the LSC for the period January 1, 1982 to December 31, 1982, and a $160,000 grant for the period October 1, 1982 to December 31, 1983. Rodgers Aff., Exhibits 2, 3.

b. The Western Regional Training Center received a $20,000 grant from the LSC for the period January 1, 1982 to December 31, 1982, and a $170,000 grant for the period October 1, 1982 to December 31, 1983. Galindo Aff., Exhibits 2, 3.

c. The Southeast Regional Training Center received a 90,000 grant from the LSC for the period January 1, 1982 to December 31, 1982, and a $130,000 grant for the period October 1, 1982 to December 31, 1983. Glover Aff., Exhibits 3, 4.

d. The Midwest Training Resource Center received a $55,000 grant from the LSC for the period January 1, 1982 to December 31, 1982, and a $135,000 grant for the period October 1, 1982 to December 31, 1983. Metzger Aff., Exhibits 3, 3A

10. Since the plaintiffs' fiscal year is commensurate with the calendar year, the funds received for expenditure in 1983 represent their grants for fiscal year 1983. Under this interpretation, the second, and larger of the two grants received by the plaintiffs pursuant to the December 1981 letters provides the base

figure for calculating their entitlement to FY 1984 funding. In calculating the plaintiffs' 1984 grants, the sums referred to in the December letters must be decreased to reflect that 3 months of those funds were provided for 1982, not 1983. Lastly, the above figures must be increased by 14.1 percent to comply with the appropriations rider.

LEGAL ANALYSIS

The Standard for Injunctive Relief

Under the well-known standard set forth in this Circuit, four factors control the Court's discretion to grant a motion for a preliminary injunction: the likelihood that the plaintiff will prevail on the merits, the degree of irreparable injury that the plaintiff will suffer if the injunction is not issued, the harm to the defendant if the motion is granted, and the interest of the public. Virginia Petroleum Jobbers Association v. FPC, 259 F.2d 921, 925 (D.C. Cir. 1958). In the event that the last three factors favor the issuance of an injunction, a movant can satisfy the first factor by raising a serious question on the legal merits of the case . Washington Metropolitan Transit Comm'n v. Holiday Tours, 559 F.2d 841, 843-44 (D.C. Cir. 1977).

A.

Serious Legal Question and Substantial Likelihood of Success on the Merits

The plaintiffs' complaint presents three grounds for injunctive relief which are directed to the Corporation's refusal to renew the training center grants: failure to comply with the 1984

Appropriations Act, Pub. L. 98-166, failure to comply with the procedural provisions of the LSCA, 42 U.S.C. § 2996j and related regulations, and breach of the 1981 grant agreements. The two statutory arguments are particularly worthy of discussion under the first element of the Virginia Petroleum Jobbers test.

1.

First, the Court considers the contention that the decision to withhold funds[8] from the regional training centers is contrary to the 1984 appropriations rider. The rider directs the Corporation to:

> insure that total annual funding for each [] current grantee [funded under section 10006(a)(1) and (3) of the Act] is maintained in fiscal year 1984 in the same proportion which total appropriations to the Corporation in fiscal year 1984 bear to the total appropriations to the Corporation in fiscal year 1983, unless action is taken by directors of the Corporation prior to January 1, 1984, who have been confirmed in accordance with section 1004(a) of the Legal Services Corporation Act.

Pub. L. 98-166, 97 Stat. 1071, 1088 (1983).

The protection of the rider inures to the benefit of current grantees of the LSC who receive grants under section 1006(a)(1) and (3) of the LSCA. Under the terms of the December 1981 grant letters, the plaintiffs clearly have the status of current grantees. The letters prohibited the plaintiffs from expending the majority of the grant funds prior to October 1, 1982, and slated most of these funds for expenditure during 1983. The plaintiffs' status as recipients of funds under the stated provisions of the LSCA is equally certain. The September 1981 grant letters expressly provided that the grants were made pursuant to section 1006(a)(1)(B) and (3)(B).

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[8] At this stage of the proceedings, the Court will treat the LSC decision as a denial of refunding because the denial apparently deprives the plaintiffs of financial assistance after the expiration of their grants. See 45 C.F.R. 1606.2(b)(1) (1983).

The defendants have proferred no arguments which cast doubt on the plaintiffs' status as current grantees under the applicable portions of the statute.[9] Instead, they argue that the plaintiffs are not the beneficiaries of the statutory formula for the calculation of funding. This baseline formula provides for a 14.1 percent increase in funding for qualified grantees in 1984. Under the defendants' view, a grantee's entitlement to increased funding arises only from the 1984 appropriations to the Corporation, and each grantee who received 1983 appropriations is entitled to a proportionate share of the increase provided by the 1984 appropriations. Since the plaintiffs did not receive funds from the 1983 appropriations, but instead received funds from an earlier measure, the defendants argue that Congress did not intend to include the plaintiffs within the reach of Pub. L. 98-166.

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[9] The defendants' contention that the plaintiffs do not receive "annual funding" within the meaning of the statute does not seriously undermine the plaintiffs' argument. The references in the December 1981 letters to "annual funding" are best understood as a device to prevent a possible claim that the plaintiffs' 1981 or 1982 funding levels were increased by the provision of 1983 funds.

The weakness in this analysis is the assumption that the statutory formula is an additional requirement which the plaintiffs must meet in order to qualify for increased funding. On the contrary, the formula merely establishes the amount (14.1 percent) by which current grantees' funding is increased, it does not mandate that each grantee's increase must come from the 1984 appropriations. In fact, the statute does not specify the source of increased funds for current grantees of the LSC.[10]

Moreover, the legislative history of Pub. L. 98-166 supports the conclusion that the rider protects qualified grantees who were funded in 1983, as well as grantees who received a share of the LSC's 1983 appropriations. As Senator Hatch stated:

> The [affirmative rider] clearly states that *all* grantees *funded* in 1983 will continue to *be* funded in *1984* until there is action taken by Directors confirmed by the Senate.

129 Cong. Rec. S14448 (daily ed. Oct. 21, 1983) (emphasis added).

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[10] This analysis is strengthened by the availability of other LSC funds for this purpose. The LSC admits that it has more than $4 million in surplus funds which are not yet obligated for 1984, in addition to the $275 million appropriations for FY 1984. This surplus is more than sufficient to fund the grants which the plaintiffs are entitled to under the Act.

Furthermore, other remarks suggest that Congress was specifically concerned about increasing grants for training services. Representative Kastenmeier, the Chairman of the subcommittee of the House Judiciary Committee responsible for oversight of the operations of the Corporation, stated that the increased appropriations:

> will allow the Corporation to increase its funding of local programs, as well as training and support grants.

129 Cong. Rec. H9561 (daily ed. Nov. 9, 1983). The Corporation can meet Congress' demand to increase the funding of training grants in one of two ways: the LSC can either fund the plaintiffs or fund new grantees. The LSC is prohibited from changing the terms and conditions of current grants to provide for more training services. National Senior Citizens Law Center, Inc. v. Legal Services Corporation , No. 83-3867, slip op. at 17-18 (D.D.C. Jan. 31, 1984). A decision to fund new grantees would likely contravene Congress' expressed preference for current grantees, and would be inconsistent with the LSC's satisfaction

with the current training programs.[11] Thus, both the language and legislative history of Pub. L. 98-166 strongly suggest that the plaintiffs are likely to prevail on their claim that the LSC decision to defund their grants was illegal.

In addition, the Congressional purpose in enacting Pub. L. 98-166 reinforces the conclusion that the training centers are entitled to receive increased appropriations. Congress enacted Pub. L. 98-166 and the three earlier appropriations measures with the broad intention of preserving the status quo pending Senate confirmation of a LSC Board of Directors. The stormy history of Senate confirmation of Reagan appointees to the LSC Board led to the Congressional decision to prevent a board of unconfirmed recess appointees from changing the funding levels of grantees or the terms and conditions of their grants. See 129 Cong. Rec. S14446 (daily ed. Oct. 21, 1983) (statements of Senators Hatch and Rudman), S14448 (statement of Senator Weicker), S14449 (statement of Senator Kennedy). The legislative history of Pub. L. 98-166 does not suggest that grantees who have received funds for expenditure in 1983 are beyond the scope of this Congressional purpose. A decision not to renew the grants of this group of grantees is precisely the sort of policy change which is prohibited by the rider.[12]

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[11] The LSC has represented that it has plans to use the surplus funds for other purposes. See Transcript at 19. This statement suggests that the Corporation does not intend to fund new training grants, and implicates exactly the sort of discretion which Congress intended to preclude the Corporation from exercising in the absence of a confirmed Board.

2.

Second, the Court considers the plaintiffs' contention that the Corporation's decision not to refund the training centers is contrary to the procedural provisions of section 1011 of the LSCA. That section provides in relevant part that:

> an application for refunding shall not be denied...unless the grantee...has been afforded reasonable notice and opportunity for a timely, full, and fair hearing, and, when requested, such hearing shall be conducted by an independent hearing examiner.

42 U.S.C. § 2996j(2).

In this case, hearings have not been held with respect to the Corporation's decision not to refund the training centers. The defendants have refused to hold hearings because they contend that the LSCA does not mandate hearings under these circumstances, and that even if hearings are typically required, the plaintiffs have waived their rights to the procedural protection of section 2996j.

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[12] Even if the plaintiffs grants are characterized as nonrecurring grants, they must still be refunded in 1984 because the statute provides no exception for one-time grants.

With respect to their first contention, the Corporation argues that the plaintiffs have not been denied refunding within the meaning of the statute, and are not "recipients" of "financial assistance" under the Act. The first assertion is plainly unsupported by the record in this case. The Corporation's regulations define a denial of refunding as:

> a decision that, after expiration of its current grant or contract, a recipient (1) will not be provided with financial assistance.

45 C.F.R. § 1606.2(b). Pursuant to the 1981 letters , the training centers received grants which expired on December 31, 1983, and these grants were not renewed by the LSC. On these facts, the regional training centers have presented a colorable claim that they were improperly denied refunding under section 2996j.[13]

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[13] The plaintiffs have also made a plausible argument that they are entitled to interim funding under § 2996f(a)(9) because they receive grants "in connection with the provision of legal assistance to eligible clients" under 42 U.S.C. § 2996f(a). *See also* 42 U.S.C. § 2996f(b)(6) (emphasis added) (suggests *that grants* for "*training* of attorneys or paralegal personnel necessary to *prepare them* to provide adequate legal assistance to eligible clients" are in connection with providing legal services to eligible clients under § 2996f(a). The relevance of the interim funding requirement to the question of irreparable harm is discussed *infra* at 23.

The contention that the plaintiffs are not "recipients" of "financial assistance" is equally unconvincing.[14] A "grantee, contractor, or person or entity receiving financial assistance" is entitled to the procedural rights afforded by section 2996j; these rights are not confined to a subclass of "recipients," as defined by 42 U.S.C. § 2996a(6). The language of section 2996j suggests a broad interpretation of the classes of grantees entitled to its procedural protection, and the legislative history of the appropriations rider indicates that the present Congress believes that grantees such as the training centers are entitled to this protection.[15]

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[14] The defendants' attempt to analogize the provision of legal training services to the provision of "computerized legal research or word processors," Transcript at 27, borders on the frivolous. Although the issue of the procedural rights of suppliers of word processing equipment is not now before this Court, there is an obvious distinction between a "grant which is necessary to carry out the purposes and provisions "of the LSCA, 42 U.S.C. § 2996e(a)(1)(B), and the grants to the plaintiffs, which directly relate to the "delivery of legal assistance," under 42 U.S.C. § 2996e(a)(3).

[15] As Senator Hatch expressly stated:

> if the Corporation decides to defund a grantee receiving funds under section 1006(a)(3) [42 U.S.C. § 2996e(a)(3)], such a grantee would also be entitled to a full and fair hearing as prescribed in section 1011.

129 Cong. Rec. S14448 (daily ed. Oct. 21, 1983). It is undisputed that the plaintiffs in this case receive grants under § 1006(a)(3).

Second, the Corporation asserts that the plaintiffs have waived their hearing rights by accepting a disclaimer included in the December 1981 letters. These letters informed the plaintiffs that:

> [f]ailure of the Legal Services Corporation to renew this one-time grant next year does not constitute denial of refunding within the meaning of section 1011 of the [Act]. Deposit and/or expenditure of any funds received under this grant will signify your acceptance of its terms and conditions.

See, e.g., Rodgers Aff., Exhibits 2, 3 (emphasis added).

Contrary to the defendants' contention, the plaintiffs have not waived their hearing rights because the waiver only applies to the Corporation's refusal to renew the grants "next year," i.e. in 1982. In this case, the Corporation did not refuse to renew the plaintiffs' 1982 grants, but instead, refused to renew their 1983 grants. These actions are not within the literal scope of the asserted disclaimer.

This literal interpretation of the disclaimer is also supported by the Court's conclusion about the reason for including the disclaimer in the December letters. The disclaimer appears to reflect the Corporation's concern that the training centers, who were already funded for 1983 in 1981, might request additional funds in 1982 for expenditure in 1983. The disclaimer is best understood as a warning that the LSC would not entertain successive requests for 1983 funds,[16] rather than as a questionable attempt to preclude the plaintiffs from exercising their statutory rights. Accordingly, the plaintiffs have shown that they are likely to succeed in their claim that they are entitled to hearings pursuant to 42 U.S.C. § 2996j.

B.

Irreparable Injury

The plaintiffs must also establish that they will suffer irreparable injury if the Court does not issue a preliminary injunction. To make this showing, the plaintiffs must demonstrate that they have been harmed by the defendants' actions, and that relief at a later stage of the proceedings will not compensate them for their injuries.

Under the circumstances of this case, the Corporation's refusal to renew the training center grants injures the plaintiffs in several respects. Despite the fact that the defendants have recently authorized the training centers to expend unused 1983 grant money in 1984, the record suggests that the centers do not have sufficient funds to continue their operations for any significant period of time. The centers are responsible for completing numerous pending projects, and have also established timetables for undertaking new projects approved by the Corporation.[17] The unavailability of alternative funding sources indicates that these projects will soon exhaust the plaintiffs' fund balances.[18]

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[16] The fact that the September 1981 letters did not contain similar disclaimers supports the conclusion about the meaning of the disclaimers in the December letters. Although the September letters were identical to the December letters in most material respects, the September letters did not implicate a concern about double-dipping because the grants only provided funds for 1981. Thus, the Corporation did not need to protect itself with disclaimers regarding future requests for funds.

Moreover, the centers' practice of planning projects months in advance of payment for the work performed is another element of irreparable harm. In the absence of continued funding, the centers will be forced to severely curtail the advanced planning activities which are an essential part of their operations.[19] Monetary relief in the future will not compensate the centers for these foregone planning opportunities.

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[17] Affidavits of John Cobb (Director, Western Regional Training Center) at ¶¶ 4, 6, Judith Rausch (Director, Midwest Resource Training Center) at ¶¶ 4, 6, Kenneth MacIver (Director, Northeast Training Center) at ¶¶ 3, 4,6. These affidavits were filed on behalf of the plaintiffs on February 7, 1984. See Galindo Dep., Exhibit 2, filed Feb. 7, 1984; MacIver Dep. at 48-51, filed Feb. 7, 1984. The affidavit submitted by Daniel Nusbaum, the Director of the Audit Division of the LSC, does not refute the plaintiffs' submissions. Nusbaum Dec. at ¶3, Exhibit 2, filed Feb. 16, 1984.

[18] Affidavits of Mary Thomas (Manager, Southeast Training Center)at ¶6, filed Feb. 7, 1984, MacIver at ¶7, Rausch at ¶7, Cobb at ¶7.

[19] See, e.g., MacIver Dep. at 73; MacIver Aff. at ¶ 8; Cobb Aff. at ¶ 8.

The above findings, standing alone, are sufficient to establish that the plaintiffs will suffer irreparable harm in the absence of the requested relief. A party requesting a preliminary injunction need not show that "rigor mortis will set in forthwith" absent the requested relief. Studebaker Corp. v. Gittlin, 360 F.2d 692, 698 (2d Cir. 1966). Furthermore, the importance of preventing the Corporation from allocating its entire surplus to other recipients compels the issuance of preliminary relief. If the Corporation completes its plans to allocate surplus funds to other recipients,[20] the plaintiffs' ability to claim their share of these funds would be severely hampered in the event that the case is eventually decided in the plaintiffs' favor on the merits. For the above reasons, the plaintiffs have demonstrated a sufficient degree of irreparable harm to justify the grant of a preliminary injunction.

C.

Harm to Other Interested Persons and the Public

Lastly, the Court must consider the harm to the defendants and other interested persons, in addition to the public interest, in order to determine whether the equities favor the issuance of a preliminary injunction. The requested preliminary relief requires the defendants to provide the training centers with approximately the same monthly allotment of funds that they have received from the LSC since 1981, and the Corporation has ample surplus funds with which to comply with this requirement.[21] By mandating a 14.1 percent increase over the centers' 1983 funding, the injunction order imposes only a slightly higher burden on the Corporation than is imposed by the interim funding provision of the LSCA. 42 U.S.C. § 2996f(a)(9), discussed supra at 17, n.13. This increase, of course, is mandated by the terms of the 1984 appropriations rider.

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[20] Hartley Dep. at 74, Exhibit 10 at 29.

Moreover, the Corporation's overall satisfaction with the performance of the centers suggests that the maintenance of the status quo does not place an undue burden on the LSC. In light of these factors, the requested relief imposes no significant harm on the defendants.

The public interest also favors the issuance of preliminary relief. The injunction implements Congress' demand that the Corporation provide increased funding for all current grantees for 1984, including grantees who provide training services. The injunction also furthers the statutory mandate that the Corporation provide legal services "to persons financially unable to afford legal assistance." 42 U.S.C. § 2996b(a). *National Senior Citizens Law Center, Inc.*, No. 83-3867 at 25.

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[21] The defendants' concern that enforcement of this order will result in a floodtide of similar claims which will bankrupt the Corporation is unwarranted. The defendants have admitted that the procedural posture of the plaintiffs' case is unique, see Defendants' Answers to Plaintiffs' Interrogatories, filed Feb. 16, 1984, and the precise scope of the order is limited to grantees under 42 U.S.C. § 2996e(a)(3)(B). These grantees must also have received LSC funds targeted for expenditure in 1983, and have been denied continued funding from the 1983 appropriations. The declarations filed by the defendants fail to identify a floodtide of claimants who satisfy these requirements. See Declaration of Charles Ritter (LSC Vice President of Finance), filed Feb. 16, 1984; Supplemental Hartley Declaration at ¶¶ 6-13, 15, filed Feb. 16, 1984.

CONCLUSION

Based on the foregoing, the Court will enter an order granting the plaintiffs a preliminary injunction pending final disposition of the case on the merits. Counsel for plaintiffs shall present an order consistent with this Memorandum Opinion within 7 days of this date.

Entered: March 6, 1984

Barrington Parker

Barrington D. Parker
United States District Judge

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Bogard Doc. #4

March 23, 1984

Mr. Donald P. Bogard
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Washington, DC 20005

RE: Legal Services Corporation
Grant Actions: 81-0004 and
82-0001

Dear Mr. Bogard:

Thank you for your prompt response to my letter of March 14. I regret that the NLADA proposal for the monitoring process which would allow us to address and clarify some important issues prior to the review did not meet with your acceptance and approval. The resolution of the critical issues of the status of LSC grants made to NLADA and the ground rules for the monitoring process is important for a number of reasons. The status of the LSC grants to NLADA, as viewed by LSC, has implications for NLADA's planning in regard to the completion of the grants. Further, NLADA has delayed asserting claims that it may have under the appropriation language attached to Public Law 98-116 because we have been attempting to reach some cooperative clarification of the issue of status with LSC. Apparently, NLADA's position on this issue will have to be affirmed in another forum.

We believe that establishing clear guidelines and ground rules up front for the monitoring process will facilitate a review of what is essentially a unique relationship. NLADA is not a recipient of LSC in the sense of other grantees. It is an independent contractor whose LSC funded activities are only part of it overall activity. It seemed to us imminently good sense to address these issues in a serious way in order to avoid confrontation and delay once the review process was under way. Further, in view of the facts surrounding your initial contact with NLADA regarding the grants, the switch from audit to monitoring and the substance and tone of Mr. Potack's letters give us cause for concern. Those factors clearly argue for some clarity regarding the ground rules for review.

While we must lodge our objection to your refusal to discuss and negotiate the ground rules for the review process, we believe it important that NLADA continue to demonstrate its compliance with the intent and purpose of the grants. Consequently, I have instructed the Executive Director of NLADA to set aside the week of May 2nd for the monitoring visit requested by LSC.

I have further instructed the Executive Director to assemble information involving the LSC funded activity and forward that information to LSC at least one week prior to the visit.

NLADA will prior to the visit present to LSC a review procedure that we think meets statutory requirements as well as protect the legitimate interests of NLADA.

We look forward to completion of this process.

Sincerely,

Benjamin Lerner

Benjamin Lerner
President

cc: Clint Lyons
Mr. Gene Potack

The **Chairman.** Now, let's go back over just what we've covered here, because I'm really concerned.

In 1981, the way you've explained it to me and to this committee, Clint Lyons told Mr. Hewlett Askew to solicit a grant from LSC to NLADA. One month later, NLADA was given a grant of $1.23 million, and later received additional grants so that by the end of calendar year 1981, it had received more than $2 million in Corporation grants.

Now, had NLADA received similar grants in prior years?

Mr. **Bogard.** It had very small grants in previous years.

The **Chairman.** But nothing like this? Nothing on the magnitude of what's involved here, is that right?

Mr. **Bogard.** That's right.

Mr. **Potack.** They received a grant of approximately $50,000, and then that was increased to $70,000 on an annualized basis for the access to justice project. Money for technical assistance——

The **Chairman.** So we're talking about a 300-percent grant award increase in calendar year 1981?

Mr. **Potack.** A lot more than that.

Previous to that, the Corporation had kept management and technical assistance in-house. Back in the early seventies, I believe, the NLADA might have received some grants. Jim Norell could probably give you a better background on that. But you're correct; the NLADA annualized grant for this Access to Justice project, which was the National Support Backup Center, was approximately $71,000, I believe, and so the funding increased to over $2 million.

The **Chairman**. In other words, you're saying that in 1981 NLADA received an unprecedented amount of grant moneys from the Corporation after grant proposals were solicited from NLADA by Mr. Clint Lyons. Is that right?

Mr. **Norell**. Yes, sir; I might add that in 1978, NLADA had put in for a grant for half a million dollars for technical assistance. This was turned down by the Corporation, and the Corporation at that time said that technical assistance belongs in-house, in the Corporation. In 1979 they turned down that grant.

The **Chairman**. Well, Clint Lyons, at the time, was the Corporation's Director of the Office of Field Services; is that right? Then he asks his deputy—well, I don't know whether he asked him—but his deputy, Mr. Askew, subsequently waives, in March 1982, many of the reporting requirements that are traditionally associated with the Corporation grants for the grants given to NLADA. Is that a correct summary of what we're saying here?

Mr. **Norell**. Yes, sir.

The **Chairman**. In other words, here's the Director who sees that these monumental grants, that were tremendously larger than this outfit had ever seen before, were given; and then his Deputy Director waives most of the requirements for reporting.

Mr. **Potack**. And those they didn't waive, they didn't comply with.

The **Chairman**. Well, was the Board informed about this waiver?

Mr. **Norell**. No, sir; not that we——

The **Chairman**. He waives the reporting requirements, or many of them, and the ones he didn't waive they haven't complied with?

Mr. **Potack**. In terms of reporting, in terms of the Legal Services Act and regulations which they were subject to as a grant condition, we don't know that.

The **Chairman**. And you're saying that the Board was not even informed of this waiver?

Mr. **Norell**. Not that we can show from the record, sir.

The **Chairman**. Well, if that doesn't sound ultra varies, I don't know what does. But in any event, NLADA received an unprecedented amount of funds in 1981. These funds were immediately disbursed; am I right on that? Yes or no?

Mr. **Norell**. Yes.

The **Chairman**. OK.

In 1982, the traditional auditing requirements contained in those grants were waived by Mr. Askew. Is that right?

Mr. **Norell**. Yes, sir.

The **Chairman**. Subsequently, both Mr. Lyons and Mr. Askew, who played such significant roles in the awarding of these grants and the waiving of all responsibilities in certain areas with regard to those grants, they both end up working for NLADA; is that right?

Mr. **Bogard**. That's correct. Mr. Lyons is the Executive Director.

The **Chairman**. He's the Executive Director of NLADA. And Mr. Askew, what's his job?

Mr. **Norell**. He's a consultant.

The **Chairman**. He's a consultant? Do you know how much he's paid?

Mr. **Norell**. I have no idea, sir.

The CHAIRMAN. And now Mr. Lyons and his associates are telling the Corporation that it does not have the authority to review these grants unless a variety of conditions, demanded by NLADA, are met in advance. Am I correct in summarizing it that way?

Mr. BOGARD. That's correct.

Mr. POTACK. Senator, in answer to your previous question about salary, at a meeting on February 6, 1983, in New Orleans, I believe the NLADA Board said that the salary for the Executive Director should remain at between $50,000 and $60,000.

The CHAIRMAN. So he's probably at least making that much.

Mr. POTACK. I would assume so.

The CHAIRMAN. Well, as a result of these developments the Corporation has given out more than $2 million for projects, and yet it has no idea what those moneys are going to pay for. Am I right?

Mr. BOGARD. That's correct.

The CHAIRMAN. And if the only available report on one of these projects is correct, it may, in fact be funding a variety of illegal activities with Legal Services Corporation money. Right?

Mr. BOGARD. Right.

The CHAIRMAN. And now, as I understand it, NLADA is not only doing that, but they're saying that they're entitled to another $2.2 million under the same terms and conditions so they can go blow that money any way they want to. Is that right?

Mr. BOGARD. That's certainly the implication in their letter.

The CHAIRMAN. And that's based on the court's decision in *Massachusetts Law Reform Institute, et al.* v. *Legal Services Corporation;* is that right? .

Mr. BOGARD. Yes, sir.

The CHAIRMAN. Well, Mr. Bogard, what steps are you going to take to rectify this ridiculous situation?

Mr. BOGARD. We have had a number of discussions in-house. We've been contacting outside counsel on the approaches that might be available to us to pursue correcting this matter, and we intend to address ourselves to it fully.

The CHAIRMAN. Well, let me say this for the record. I would like to just point out that an invitation was sent to the National Legal Aid and Defenders' Association to testify about the status of these particular grants, and specifically we asked Mr. Lyons, the executive director of the association, to testify because of his unique role in this matter. Now, the lawyers representing Mr. Lyons informed my staff that he just plain is not willing to testify at this time. As a result, we went back to NLADA to see if someone else from the association would be willing to testify. My staff contacted the President of NLADA, Mr. Benjamin Lerner, who stated that while he would be willing to testify, Mr. Lyons was the association official who would have the best knowledge of the current status of the grants. He said he would prefer that the committee submit any questions that committee members might have concerning these grants to NLADA, and the association would provide written answers.

I think you ought to pull every string you have, every legal ability that this Corporation has or any of you have, and you ought to go after and find out just where those money are, what they've been used for, whether there are the improprieties that have been suggested here today—and they certainly look like it to me, based upon what limited information you have—and I think somebody ought to have to account here.

If they can account, and they can account properly, that's another matter. But it appears to me that it's going to be a very difficult thing for them to do.

You know, these are, I suppose, the so-called liberals out there, really trying to take care of the poor and they wonder why some of us get so darned upset. I think Jerry Denton was right; President Reagan wants to have legal services for the poor, but he has personally felt that this is so corrupted, this institution, that it would be better to fold it and come up with some approach that will do exactly that, get these moneys out to help the poor.

Now, I don't want to sound like I'm beating on you, because I do think you're trying to change things down there, and this is one of the isolated occurrences. I think you've made some strides, and I appreciate that.

Let me turn to another issue. We just asked several questions about what I believe to be one of the oldest grants awarded by the Corporation in recent memory. In 1981, did the Corporation award a grant for $303,000 to the Legal Aid Society of Albuquerque with the understanding that this grant would be administered by Rio Grande Associates? Is that right?

Mr. OPSUT. Yes, it did, Mr. Chairman.

The CHAIRMAN. OK. Would you please explain what Rio Grande Associates is, and what was the purpose behind the awarding of this grant?

Mr. OPSUT. Rio Grande Associates—it's hard to define because the operator of Rio Grande Associates classified it in three different ways. As far as we can tell, it's a loose association of technical people who provide technical assistance to legal services programs. Back in 1980 there was a contract between Legal Services and Rio Grande Associates; the operator of that association is Mr. John Arango, located in Algadones, NM.

The original contract was for $110,000. It was to provide technical assistance to legal services programs in the area of priority set. The original contract of Mr. Arango's and Rio Grande Associates' was set to expire in September of 1981. In April of 1981, Mr. Arango's contract was extended by Mr. Hewlett Askew, then the deputy director of the Office of Field Services. Mr. Arango indicated that he couldn't complete the work by the end of the contract period.

In August of 1981 there was a remaining balance on that original contract of $50,000. The problem was that at the end of September of 1981, the Board of Legal Services had indicated that all moneys not expended would be brought back into the general operating fund. Mr. Askew's plan for that was to make a one-time grant to the Legal Aid Society of Albuquerque. They would contract with Mr. Arango to do the work. Mr. Arango was given an additional $58,000 in that contract to perform additional technical assistance work.

There were other funds available at that time but, again, the Corporation's senior staff wanted to get out of Legal Services Corporation—those were State support moneys. There were three regional offices that had not submitted paperwork to get the State support money out to State support programs. This money, which amounted to $177,000, was also included in the grant to Legal Aid Society of Albuquerque, for a total of $303,204.

The **Chairman**. Well, let me recite my recollection of some of this and see if you agree.

As I understand it, Rio Grande Associates is run by this John Arango of New Mexico and—is it correct that he's the entire staff of Rio Grande Associates?

Mr. **Opsut**. He is the entire staff. He's it.

The **Chairman**. Arango was under previous contract with the Corporation for $100,000 as I understand it, but he was unable to spend all of those funds?

Mr. **Opsut**. That's correct.

The **Chairman**. OK. Now, he asked for an extension and the Corporation agreed; am I right on that?

Mr. **Opsut**. That's correct.

The **Chairman**. But the Corporation asked him if he would also allow the Corporation to include State support moneys in this particular grant, is that right?

Mr. **Opsut**. That's correct.

The **Chairman**. He agreed, and those moneys were to cover State support in New York, in the Philadelphia and Denver regions; is that correct?

Mr. **Opsut**. That's correct.

The **Chairman**. OK. Now, why was Mr. Arango chosen to administer the distribution of State support moneys in these three regions?

Mr. **Opsut**. I'm not sure, Mr. Chairman, why he was selected.

The **Chairman**. Well, I thought everybody pretty well agreed that Arango knew absolutely nothing about State support, but that the Office of Field Services——

Mr. **Opsut**. That's correct. When Mr. Arango was interviewed, he indicated to us that he knew absolutely nothing about——

The **Chairman**. He didn't know a thing about it, but the then—Office of Field Services, that's Mr. Lyons and Mr. Askew surfacing again——

Mr. **Opsut**. That's correct.

The **Chairman**. Well, they thought they were under pressure to get the money out into the field before the end of fiscal year 1981, is that correct?

Mr. **Opsut**. That's correct.

The **Chairman**. This is the evidence that you've been able to find?

Mr. **Opsut**. This is from Mr. Arango.

The **Chairman**. Well, otherwise the funds would have reverted to the Corporation's general funds, and really could have been spent elsewhere; is that correct?

Mr. **Opsut**. That's right, as provided for by the Board.

The **Chairman**. OK. Now, as I understand it, Mr. Arango has acknowledged that he was not, nor is, an expert in the area of State support; is that right?

Mr. **Opsut**. His indication was that he knew nothing about State support——

The **Chairman**. Then who was in charge of distributing those funds?

Mr. **Opsut**. The Office of Field Services, Mr. Askew and Mr. Lyons were in charge of it together with the State Support Coordinator, a Mr. Walker Thompson.

The **Chairman**. You've mentioned $303,000. Was the $303,000 divided up into categories or was it all to be spent on State support activities?

Mr. **Opsut**. If I could, I'd like Mr. Webber, again, the person who does our financial work, to address that.

Mr. **Webber**. Senator, the $303,000 was actually divided up into a number of categories. Technical assistance of $58,000, plus the rollover of the $50,000 remaining in the 1980 grant; $177,000 was identified as State support, and the last category was $17,300 identified as a project leader selection grant. The latter amount of $17,300 was paid by Legal Aid Society of Albuquerque directly to Mr. Wayne Pressell under this grant. The balance of $285,000 was retained by Legal Aid Society of Albuquerque and an agreement was made between LASA and Rio Grande that, as the money was spent by people working for Rio Grande Associates, John Arango would submit vouchers to LASA [Legal Aid Society of Albuquerque], and LASA would then reimburse Rio Grande for the expenditures.

In some cases, especially in the distribution of State support money of $106,500, this money was passed through Rio Grande Associates from LASA.

The **Chairman**. Let me go through this a little bit.

Mr. **Webber**. There was one other thing that happened. Within the financial records, there's a notation in Rio Grande's ledger sheets on November 14, 1981, referencing a call from Walker Thompson telling John Arango to transfer the balance that was in the State support funds to another account, headed up, "NOSSU."

The **Chairman**. What is that?

Mr. **Webber**. NOSSU, N-O-S-S-U.

At that time, I found a memorandum to file by John Arango confirming this telephone conversation with Walker Thompson, and in it he indicated that he wasn't sure what the balance would be in the State support funds because he was still waiting for some bills to come in. Subsequently, in 1982, he posted to the NOSSU account—transferred it out of the State support account—$36,875. And in tracing the charges against this account we found numerous travel requests by individuals throughout the country.

I guess that's about it.

The **Chairman**. Anything else you want to say on this?

Well, let me do this; let me kind of go through what my recollection is of it and see if you agree with me.

With regard to this $303,000 for State support activities, as I understand it $106,000 went to State support projects; is that right? About $106,000?

Mr. **Webber**. Yes, directly.

The **Chairman**. OK. Now, I think $108,000 went to technical assistance, as it was called, under Arango's extended contract; is that right?

Mr. **Webber**. That's correct.

The **Chairman**. And $17,000 went to a project director selection effort, and $36,000 was eventually set aside to cover the expenses of an organization called the National Organization for State Support Units. Is that correct?

Mr. **Webber**. That's correct, and that money came out of the $177,000 originally identified for State support.

The **Chairman**. OK. At this point I would like to place in the record, without objection, three documents concerning the grant we're discussing. These are letters and memorandums of conditions, agreements and understandings. We will designate these as Bogard documents Nos. 5, 6, and 7.

[Bogard documents Nos. 5, 6, and 7 follow:]

Bogard Doc. #5

LEGAL SERVICES CORPORATION
733 Fifteenth Street, N.W., Washington, D.C. 20005

Dan J. Bradley,
President

Writer's Direct Telephone
(202)

September 30, 1981

Philip Krehbiel, Chairperson
Board of Directors
Legal Aid Society of Albuquerque
505 Marquette, N.W., Suite 1700
P.O. Box 7538
Albuquerque, New Mexico 87104

Dear Mr. Krehbiel:

I am pleased to inform you that the Legal Services Corporation is awarding your program a one-time grant in the amount of $303,204 for technical assistance and state support activities to be used in accordance with the work statement and the special conditions that are attached to and incorporated by reference in this grant.

A check in the amount of $151,602, which represents one-half of the total grant award, will be mailed to you shortly under separate cover. An additional payment of $151,602 will be sent to you on November 1, 1981.

Deposit and/or expenditure of any funds received under this grant will signify your acceptance of its terms and conditions.

If you have any questions, please contact Bucky Askew at 202-272-4080.

Sincerely,

Dan Bradley

Dan J. Bradley

cc: Steve Granberg, Program Director

SPECIAL GRANT CONDITIONS

GRANTEE: Legal Aid Society of Albuquerque, Inc.

LSC GRANT NUMBER: 732010

1. The funds provided by this grant are to be used exclusively for the activities described herein. Such funds shall be allocated to the tasks stated in the attached work statement as follows:

Tasks I, II, III and IV	$ 58,875
Task V	50,000
Task VI	177,029
Task VII	17,300
Total	$ 303,204

Grantee will account for and report on the expenditure of funds made available by this grant as a separate fund, providing separate accounting for receipts, expenditures, assets, liabilities, and fund balances.

2. If the grantee acquires a copyright in work produced under this grant, it will grant to the Corporation, without fee, a non-exclusive, irrevocable license to duplicate, publish, distribute and use any such copyrighted work product. Grantee will insure that it retains a copyright interest in any work produced for it by a contractor, consultant, or subgrantee.

3. The terms and conditions and description of state support activities to be conducted under this grant will be determined by the Corporation and will be included in a letter of understanding

to be signed by the parties no later than October 30, 1981, which letter shall be incorporated by reference into this grant.

4. Grantee may undertake any of the activities or provide any of the services contemplated by this grant period directly or by sub-grant or contract. Grantee remains responsible to the Legal Services Corporation for proper expenditure of, accounting for, and audit of all grant funds, whether or not delegated to other grantees or contractors.

5. Any subgrantee or contractor that undertakes responsibility for any part of this grant will be bound by these conditions.

6. Grantee will submit to the Corporation written reports describing its activities and progress and stating its grant expenditures during the period for each of the tasks covered by this grant.

WORK STATEMENT

Funds provided under this grant shall be used for the activities and purposes described below:

I. Providing technical assistance to legal services programs which 1) were established, or experienced significant expansion, from 1976 to 1981; or 2) have suffered major reductions in funding. The purpose of this assistance shall be to help programs address issues in service delivery, coordination of services with other programs and groups or individuals assisting eligible clients, program management and internal cutbacks. Assistance shall be provided by experienced legal services managers and other expert personnel trained in consultation techniques. Assistance will ordinarily be provided in one of three ways:

   A. Providing on-site assistance to individual programs.
   B. Conducting skills workshops for a group of programs which are addressing the same issue or issues.
   C. Providing orientation for newly hired program directors and other key managers.

II. Developing, reproducing and distributing materials to assist programs to deal with 1) the continuing effect of the rapid expansion of legal services from 1976-1981, or 2) the effect of substantial reductions in funding. At a minimum, such materials shall include the chapter: "Legal Work Management" from the Corporation publication Systems for Legal Services.

III. Developing procedures which will assist legal services programs to set and implement priorities which enable programs to provide maximum benefit to clients in their service area. Such procedures shall, to the extent possible given diminished resources and changes in the environment, enable programs to comply with the priority setting standards issued by the Corporation on September 22, 1980. Special attention shall be given to development of priority-setting procedures for the following kinds of programs:

A. Programs that are part of joint efforts with other Corporation grantees to achieve benefits for clients.

B. Programs which are experiencing extraordinarily heavy demand for legal assistance.

C. Programs which are working with groups that are seeking to improve conditions in the client community.

D. Programs that have, or propose to have, significant pro bono or compensated private attorney components.

E. Programs serving large or low density rural areas.

F. Programs that serve migrants, Native Americans, the handicapped, or other "1007h" groups.

Activities to develop priority-setting procedures shall include, but shall not be limited to:

1. Experiments intended to find effective procedures for the above described programs, and for other kinds of programs.
2. Demonstration projects intended to determine

whether techniques identified in successful experiments work equally well in other programs.

3. Adaptation of priority-setting techniques used outside legal services to meet the needs of legal services programs.

IV. Improving the capacity of legal services programs, and of entities providing support or training to legal services programs, to assist programs to use the priority-setting procedures developed as a result of activities described in the preceding section. Activities to increase capacity to assist programs to set priorities might include:

A. Training consultants, trainers, and experienced legal services workers in successful priority-setting procedures.

B. Disseminating information about successful priority-setting procedures to program managers, trainers, and consultants.

C. Arranging for program managers, trainers and consultants to observe or participate in on-going experiments or demonstration projects.

V. Managing activities to be executed under the Corporation's existing contract with Rio Grande Associates, and insure that such activities are coordinated with other technical assistance, support and coordination, and training activities offered to programs. Specifically:

A. Identify programs needing assistance, or suitable for priority-setting experiment or demonstration, and determine the best means for providing assistance.

B. Recruit, train, assign, supervise, evaluate, and pay fees and expenses of consultants assigned to a program or a group of programs.

C. Select, supervise, evaluate and pay fees and expenses of persons providing training on priority-setting procedures.

D. Select, supervise, evaluate, and pay fees and expenses of persons producing or editing materials, or disseminating information about priority-setting procedures or methods for dealing with the continuing effects of expansion, or cuts in funds.

E. Select, support and pay expenses of program staff participating in priority-setting experiments or demonstrations.

F. Design and conduct orientations, training on priority-setting procedures, and other information dissemination events.

G. Arrange for reproduction and distribution of materials.

H. Perform such activities as may be required to insure that activities under this contract are coordinated with the activities of other entities providing technical assistance, support and coordination, or training to programs.

I. Maintain records, prepare reports, and carry out other activities related to the administration of this grant.

J. Perform such other activities as may be required to insure effective and efficient completion of this work plan.

VI. Providing state support services. The specific work statement for state support activities will be developed in accordance with Special Condition No. 3 attached to this grant.

VII. Develop a training and technical assistance package to assist programs in the process of director recruitment and retention. Specific topic areas to be included in the package are as follows:

A. DEFINING THE POSITION - Discussion on developing a:

1. Program analysis of its stage development
2. Description of Program mission, goals and priorities
3. Description of Program's personalities - values and assumptions
4. Analysis of Program history
5. Analysis of Program Director perspective - manager
6. Affirmative action requirements

   7. Development of job description - comprehensive description of role and function in Program
   8. Development of salary and fringe benefit scale

B. DECIDING THE PROCESS - Discussion on developing a:

   1. Chart of who will be involved and what the involvement will be
      a. Full Board of Directors
      b. Board of Directors Sub-Committee
      c. Staff
      d. Former and/or current Program Directors
      e. Regional office staff
      f. Clients and client groups
      g. Outside consultants
   2. Time schedule in allocation of time to steps in process
   3. Projected costs of process
   4. Procedures
      a. Resumes
      b. References
      c. Interviews
      d. Other testing
      e. Eliminations
      f. Final selection
   5. Contingency plan if process fails
   6. Interim management while searching for a Program Director

C. FINDING THE PERSON - THE SEARCH

   1. How to advertise

   2. Where to advertise

   3. How long to advertise

   4. Develop contingency plans if search fails to identify suitable candidates

D. SECURING THE PERSON

   1. Setting Program's expectations of performance of Program Director and vice versa.

   2. Negotiating the above expectations

   3. Finalizing the commitment and contract between Program Director and Program

Bogard Doc. #6

AGREEMENT BETWEEN RIO GRANDE ASSOCIATES AND
THE LEGAL AID SOCIETY OF ALBUQUERQUE

1) The Legal Aid Society of Albuquerque, Inc., (LASA) shall compensate, as set out below in Paragraph 2, Rio Grande Associates (RGA) in consideration for the work described in the attached "Work Statement".

2) The total payment for successful completion of tasks described in the "Work Statement" shall not exceed the following amounts:

TASKS IN "WORK STATEMENT"	TOTAL
I, II, III, IV, V.	$108,875
V, VI, VII.	177,029
	$285,904

LASA will provide RGA with an advance payment of $20,000, which shall be part of the above maximum payment. Further, LASA agrees to reimburse RGA on a monthly basis for the costs incurred during the performance of this Agreement. The $20,000 advance payment shall be subtracted from the amount otherwise due RGA upon conclusion or termination of the contract. RGA shall furnish the necessary personnel, materials, services, facilities and otherwise do all things necessary or incident to performance of this Agreement.

3) The effective date of this Agreement is October 1, 1981. All work and services required to be performed hereunder shall be completed by September 30, 1984.

4) This Agreement may be terminated in whole or in

part by the Director of LASA at any time before the completion of the project upon the determination by the Director that RGA performance is substantially unsatisfactory or that failure to make progress in the prosecution of the work endangers such performance. RGA will be notified of any decision to terminate this Agreement, the extent to which performance of work under this Agreement is terminated, and the date upon which termination becomes effective. Such termination will not affect obligations or costs incurred prior to notice of termination provided such costs and obligations were incurred in good faith and were otherwise allowable. Upon learning of a potential problem within the scope of this Agreement, the Director of LASA shall promptly notify RGA of this problem in order that RGA has a reasonable opportunity to take corrective action. The power to terminate this Agreement shall only be exercised after such notice and opportunity has been given and unless it reasonably appears that the problem is not correctable.

5) RGA will maintain expenditure records in accordance with acceptable accounting practices for all funds under this Agreement. The records shall be in sufficient detail to allow for audit and on-site inspection by LASA or its designee. RGA records pertaining to this contract shall be produced for LASA or its designee upon request from LASA.

6) Reimbursement for expenses actually incurred by RGA, or for cancellation of any advance made to RGA, shall be made after RGA provides LASA with a statement showing:

1) For consultant fees: person paid, total amount paid, rate paid, and dates and hours on each date for which a fee was paid; 2) For travel: person traveling, and amount reimbursed for transportation, meals, lodging, and other travel expenses; 3) For employees of sub-contractors: time slip showing person paid, dates and hours paid, and statement from sub-contractor verifying salary amount; 4) For all other expenses: nature of expense, and amount of expense.

7) RGA agrees that during the performance of this Agreement, it will not discriminate on the basis of race, sex, color, religion, age, handicap, or national origin in connection with employment or provision of services. RGA shall include an appropriate provision to implement this Section in all sub-contracts or consultant agreements hereunder. LASA retains the right to perform equal opportunity compliance reviews as may be deemed necessary.

8) If RGA acquires a copyright in work produced under this Agreement, it will grant LASA and LSC, without fee, a non-exclusive, irrevocable license to duplicate, publish, distribute and use any such copyrighted work product. RGA will insure that it retains a copyright interest in any work produced for it by a sub-contractor or consultant.

9) Any sub-contractor or consultant that undertakes responsibility for any part of this Agreement shall be bound by the conditions of this contract.

10) RGA may submit for payment under this Agreement

expenses incurred by its employees, consultants, contractors or sub-contracts prior to the beginning of this Agreement, provided that

a) the work performed or expense was incurred as part of the LSC "Project Take-Off", "Goals and Priorities" contract or the "Buddy Project for State Support Centers", and

b) the LSC is unable to cover those costs from any funds reserved for payments of costs incurred during FY81 or earlier.

11) RGA shall prepare for LASA such written reports describing its activities as are required by the LSC.

12) No change in any terms and conditions provided for herein shall occur without prior approval of LASA.

LEGAL AID SOCIETY OF
ALBUQUERQUE, INC.

By: ______________________
STEVEN F. GRANBERG
Executive Director

Date: [illegible]

RIO GRANDE ASSOCIATES

By: ______________________
JOHN ARANGO

Date: [illegible]

WORK STATEMENT

Funds provided under this contract shall be used for the tasks described below:

I. Providing technical assistance to legal services programs which 1) were established, or experienced significant expansion, from 1976 to 1981; or 2) have suffered major reductions in funding. The purpose of this assistance shall be to help programs address issues in service delivery, coordination or services with other programs and groups or individuals assisting eligible clients, program management and internal cutbacks. Assistance shall be provided by experienced legal services managers and other expert personnel trained in consultation techniques. Assistance will ordinarily be provided in one of three ways:

   A. Providing on-site assistance to individual programs.

   B. Conducting skills workshops for a group of programs which are addressing the same issue or issues.

   C. Providing orientation for newly hired program directors and other key managers.

II. Developing, reproducing and distributing materials to assist programs to deal with 1) the continuing effect of the rapid expansion of legal services from 1976 - 1981, or 2) the effect of substantial reductions in funding.

III. Developing procedures which will assist legal services programs to set and implement priorities which enable programs to provide maximum benefit to clients in their service area. Such procedures shall, to the extent possible given diminished resources and changes in the environment, enable programs to comply with the priority setting standards issued by the Corporation on September 22, 1980. Special attention shall be given to development of priority-setting procedures for the following kinds of programs:

A. Programs that are part of joint efforts with other Corporation grantees to achieve benefits for clients.

B. Programs which are experiencing extraordinarily heavy demand for legal assistance.

C. Programs which are working with groups that are seeking to improve conditions in the client community.

D. Programs that have, or propose to have, significant pro bono or compensated private attorney components.

E. Programs serving large or low density rural areas.

F. Programs that serve migrants, Native Americans, the handicapped, or other "1007h" groups.

Activities to develop priority-setting procedures shall include, but shall not be limited to:

1. Experiments intended to find effective procedures for the above described programs, and for other kinds of programs.
2. Demonstration projects intended to determine whether techniques identified in successful

experiments work equally well in other programs.

3. Adaptation of priority-setting techniques used outside legal services to meet the needs of legal services programs.

IV. Improving the capacity of legal services programs, and of entities providing support or training to legal services programs, to assist programs to use the priority-setting procedures developed as a result of activities described in the preceding section. Activities to increase capacity to assist programs to set priorities might include:

A. Training consultants, trainers, and experienced legal services workers in successful priority-setting procedures.

B. Disseminating information about successful priority-setting procedures to program managers, trainers, and consultants.

C. Arranging for program managers, trainers and consultants to observe or participate in on-going experiments or demonstration projects.

V. Managing activities to be executed under this Work Statement and insure that such activities are coordinated with other technical assistance, support and coordination, and training activities offered to legal services programs.

VI. Improving the capacity of entities providing state support to:

A. plan, monitor and assist in implementing a coordinated approach to the legal issues affecting eligible clients arising out of the implementation of block grants, related programs and other federal assistance programs;

B. assist legal services programs and eligible clients in addressing significant substantive issues; and

C. become more economical and effective in the delivery of legal services.

RGA may execute contracts to conduct special projects designed to accomplish in whole or in part the purposes set forth in the above sub-paragraphs. A special project shall be any activity so designated by LASA, after approval of such project by the Director of the Office of Field Services of the Legal Services Corporation or his designee on or before November 30, 1981.

RGA will reimburse the entity conducting an approved special project for costs, including fees and actual and necessary expenses, up to the amount in the budget approved for the special project. RGA may make an advance against the amount in the approved budget.

VII. Planning and conducting conferences on state support efforts, and for providing on-site consultant and other technical assistance to state support efforts.

Bogard Doc. #7

MEMORANDUM OF UNDERSTANDING BETWEEN THE LEGAL AID SOCIETY OF ALBUQUERQUE AND THE LEGAL SERVICES CORPORATION

The Legal Aid Society of Albuquerque ("recipient") will perform the following tasks with respect to state support:

1. In order to improve the capacity of entities providing state support to:

    (a) plan, monitor and assist in implementing a coordinated approach to the legal issues affecting eligible clients arising out of the implementation of block grants, related programs and other federal assistance programs;

    (b) assist legal services programs and eligible clients in addressing significant substantive issues; and

    (c) become more economical and effective in the delivery of legal services,

the recipient shall contract with individuals and corporations to conduct special projects designed to accomplish in whole or in part the purposes set forth in this paragraph. A special project shall be any activity approved by the Director of the Office of Field Services of the Legal Services Corporation or his designee on or before November 30, 1981. Special projects funded for the purposes set forth in this paragraph shall not exceed in aggregate $111,029.

2. To qualify for approval, proposals for special projects and proposed budgets must be received by the recipient and the Director of Field Services on or before November 23, 1981. The Office of Field Services will review and approve or disapprove the proposed project and budget in a timely manner.

3. Once a special project has been approved, the recipient will reimburse the contractor for costs, including fees and actual expenses, in carrying out the special project up to the amount of the approved budget. The recipient may make an advance against the amount of the approved budget to a contractor.

4. In addition, for the purpose of planning and conducting conferences on state support efforts, and for the purpose of providing on-site consultant and other technical assistance to state support efforts, recipient shall contract with individuals and corporations. Contracts entered into pursuant to this paragraph shall not exceed in aggregate $66,000.

LEGAL AID SOCIETY OF ALBUQUERQUE
By: ______________________
Date: ______________________

LEGAL SERVICES CORPORATION
By: ______________________
Date: 10-10-81

The **CHAIRMAN**. Now, as I understand it, Mr. Arango originally had a contract for $110,000, of which $50,000 was not expended in fiscal year 1981. Is that correct?

Mr. **WEBBER**. The actual amount was—well, I'd like to correct the record. It was $114,000, and by mid-1981 he had spent—he had $50,000 left of it.

The **CHAIRMAN**. Oh, I see; it was $50,000 left. OK. But am I right, now, that he had a contract for $110,000 of which $50,000 he failed to expend in fiscal year 1981?

Mr. **WEBBER**. That's correct.

The **CHAIRMAN**. And when his contract was extended, why was it increased to $110,000 instead of the $50,000?

Mr. **WEBBER**. Why did he still have $50,000?

The **CHAIRMAN**. Well, why did they extend it up to $110,000 instead of keeping it at $50,000?

Mr. **WEBBER**. The contract was a cost reimbursement contract. What they had done, they had given him the grant for $114,000, but it's cost reimbursement. He had submitted expenses to the Legal Services Corporation in mid-1981—he had $50,000 available to him; and according to his discussion with us initially in Albuquerque, they were concerned about the extension that they had received because apparently there was some problems within the Corporation which I'm not aware of. But one thing that—apparently, in the discussion with the individuals at Legal Services Corporation, they agreed to advance him another $58,000 for technical assistance.

Mr. **BOGARD**. We don't know the basis for that.

The **CHAIRMAN**. Now, you've been talking about NOSSU, that's the National Organization of State Support Units; right?

Mr. **OPSUT**. That's correct.

The **CHAIRMAN**. OK. Now, this was given $36,000 by Mr. Arango, and as I understand it—and correct me if I'm wrong—in November 1981 he was told to do this by Mr. Walker Thompson, who was the State Support Coordinator for the Office of Field Services; NOSSU was created to lobby the Corporation to continue funding for State support efforts. Is that correct?

Mr. **OPSUT**. That's correct.

The **CHAIRMAN**. The statement submitted to the committee by Mr. Hewlett Askew, he states that NOSSU was founded in December 1981 to coordinate State support activities. Now, I think the dates here are critical because in the sequence you're suggesting, or at least suggested by these facts, it would appear that the Corporation was directly involved in the creation of NOSSU. Am I correct in making that assertion?

Mr. **OPSUT**. Based on the dates, that would be——

The **CHAIRMAN**. Well, let me put Mr. Askew's statement into the record as Bogard document No. 8.

[Bogard document No. 8 follows:]

Bogard Doc. #8

STATEMENT OF
HULETT H. ASKEW

My name is Hulett H. Askew. From 1978 to 1982, I was the Deputy Director of the Office of Field Services of the Legal Services Corporation, and from 1982 to March of 1983, I was the Acting Director of that Division. During my tenure with LSC, I was responsible for supervising and coordinating the work of LSC's nine regional offices.

Kevin McGuiness of Senator Orrin Hatch's staff asked me to address three questions regarding:

1. Why was the grant made, and specifically why to this program?

2. Why was $58,000 added to the grant and for what purpose were these funds to be utilized?

3. Why were part of the grant funds utilized for the activities of the National Organization of State Support Units?

I. Why Was The Grant Made, And Specifically Why To This Program?

In 1979, the Government Accounting Office (GAO) issued a report on the Legal Services Corporation in which it concluded that LSC should be doing more to assist legal services programs in implementing the requirements of Regulation 1620--Priority Setting. In early 1980, the Board of LSC approved the setting aside of funds to address the GAO recommendation; and during 1980, a committee made up of LSC staff and field program representatives discussed the status of priority-setting and what should be done about it. A set of "standards" for priority-setting were produced in September of 1980 as a product of this process.

In October or November of 1980, OFS entered into a contract with Rio Grande Associates (RGA) and Ken Neiman to test the priority-setting "standards" in several field programs and to assist legal services programs generally in complying with

Regulation 1620. Ken Neiman was the person who produced the "standards" and had a great deal of experience as a management consultant. Rio Grande Associates was selected because John Arango, the founder of the firm, was the acknowledged national expert on priority-setting in legal services and had been deeply involved in this work since the early 1970's. He was respected and trusted by LSC and also, most importantly, by field programs. Rio Grande, Arango and Neiman all had several contracts with LSC prior to 1980. The contract amount was approximately $110,000 and the priority-setting work was to be completed by September 30, 1981.

The possible demise of the Legal Services Corporation and the very uncertain future of every Corporation-funded recipient caused most programs to postpone or cancel priority-setting plans until future funding prospects were known. By March or April of 1981, it became obvious to LSC and to the contractors that the work under this contract would not be completed by September 30, 1981. Therefore, LSC in April of 1981 amended the RGA contract to extend the completion date to April of 1982.

During the spring and summer of 1981, the LSC Board and staff began making plans for absorbing a large cut in appropriated funds. LSC ultimately decided to phase out two major operating divisions (the training division and the Research Institute) and to RIF (lay-off) half of its staff. It also decided to decentralize many of its other activities (training and technical assistance being the two most prominent). As a result, the Corporation was required to fund by grant or contract many activities previously performed by the Corporation.

By August of 1981, LSC had a remaining obligation of approximately $50,000 under the contract with RGA. Since September 30 was the end of the fiscal year and all unexpended amounts remaining in LSC accounts would be placed in a general fund on October 1, OFS had to decide if it would preserve the $50,000 to pay the remainder of the contracted amount after the end of the fiscal year. Two factors controlled the ultimate decision--1. the work on priority-setting was important and had to be completed from a programmatic perspective; and 2. RGA had an enforceable contract with LSC, and LSC was obligated for $50,000 more to meet the contract terms. The only way to preserve the funds for these purposes was to expense them before October 1.

In order to insure that the funds that had previously been contracted for and obligated were in fact paid to RGA, OFS decided to make a one-time grant to the Legal Aid Society of Albuquerque for the remaining $50,000. LAS of Albuquerque was selected because of its physical proximity to RGA, because RGA and the Board and staff of LASA had a close working relationship, and because LASA agreed to serve as trustee of these funds. The grant provided that RGA and LASA would enter into a contract that contained a memo of understanding as to how these funds were to be spent.

II. Why Was $58,000 Added To The Program And In What Purpose Were These Funds To Be Utilized?

While negotiations with RGA and LASA were underway, LSC began the annual process of looking at all grant and contract accounts to determine what other funds might not be expensed by September 30. A review of all accounts produced a total of approximately $58,000 in several different accounts which were established during 1981 but in which some funds still remained. The funds were unspent because of delays in allocation usually attributed to the uncertainty of LSC's future. The need for the projects was still present, and OFS wanted to make sure that the need was addressed. OFS then had decided to collect all of these unexpended funds into one account and to include the amount in the grant to LASA. The grant specified that the $58,000 should be utilized for technical assistance to programs (for example, training events, developing materials, conducting workshops and orientation sessions); for beginning to address program responses to reductions in funding (i.e., retrenchment); and for additional priority-setting work (training events, information-sharing, etc.). The grant included special grant conditions and a work statement which described and controlled the manner in which LASA would allocate and report on these various grant amounts. The grant also provided in a special condition that all terms and conditions applied to any subgrantee of these funds.

There were also other events underway at LSC which led to a further amendment of this grant. During 1981, the LSC Board set aside an amount of one-time funds (probably carry-over funds from 1980) for funding state support activities. OFS in early 1981 instructed each Regional Office to conduct a competitive grant process within its respective region for these one-time state support funds. By September of 1981, six Regional Offices had made their recommendations to OFS/HQ and grants had been made to state support programs in those regions. However, three Regional Offices (New York, Philadelphia, and Denver) had not yet recommended the allocation of their entire amount. As with the RGA priority-setting contract, OFS faced the possibility of losing these funds for state support purposes if they were not expensed prior to September 30, 1981. OFS decided it could not allow that to happen for two reasons: 1. the LSC Board specifically set these funds aside for state support; and 2. commitments had been made to the state support community that these funds would be allocated for state support purposes. OFS was obligated to see that the Board's desires and our prior commitments were met.

Therefore, LASA was contacted in September of 1981 to seek agreement that they would receive and hold these funds for LSC until decisions could be made as to exactly which additional state support programs should be funded. LASA agreed and the grant was amended to add $177,029 for state support funding, training and technical assistance. Besides funding the state support organizations as instructed by LSC (which was done in November of 1981), LASA was required to hold a certain amount of funds ($66,000) for the payment of costs for state support conferences and technical assistance. As a result, payments were approved by LSC/HQ of approximately $30,000 for a state support conference in Charleston, SC; a state support survey and needs assessment; technical assistance to individual state support units; and the production of a paper on the Interest on Lawyers Trust Accounts concept. All of these expenses were approved by OFS/HQ and reported on by LASA through the submission of quarterly financial reports to LSC.

III. Why Were Part Of The Draft Funds Utilized For NOSSU?

The $36,000+ remaining from the original $66,000 state support technical assistance category was designated by OFS for use by a soon-to-be-established national state support organization. During 1981, LSC and its Regional Offices through the provision of the one-time grants mentioned above and through the provision of technical assistance had been working to expand the scope and quality of state support services. Many new state support units had been funded in 1980 and 1981, and most of the older units had received increases in their funding levels from LSC. Early in 1981, discussions had begun among state support representatives about the need for the formation of a national organization that would coordinate various state support activities and provide a forum for state support representatives to meet and discuss issues of common concern. The fact that most other segments of the legal services community had such organizations (National Clients Council; National

Association of Indian Legal Services; Organization of Legal Services Back Up Centers; and so on) served as an inducement for the establishment of such an entity. OFS had an interest in the formation of such an organization because of LSC's decision to decentralize operations in response to the reduction in appropriations. OFS believed that a national state support organization could assist LSC in providing technical assistance to state support programs, in designing and delivering training to state support staff and in coordinating discussions of critical issues about future activities of state support programs in the light of budget reductions.

In response to these developments, OFS decided that any funds remaining in the LASA grant after the initial round of state support work was done would be held to provide funding and support to the national organization that was then in the planning stages. The National Organization of State Support Units was founded in December of 1981, and LASA with OFS approval eventually made approximately $36,000 available for specified activities (meetings, conferences, technical assistance, materials development, etc.). Among other activities, NOSSU sponsored and ran a conference for state support staff on Private Attorney Involvement in 1982 and conducted a survey on technical assistance needs. However, no grant was ever made to NOSSU by LASA--the funds were set aside by LASA to reimburse expenses incurred in carrying out approved activities.

I believe that this fully explains the circumstances leading up to the grant to LAS of Albuquerque. This grant, just like all LSC grants, contained assurances and conditions that required compliance with the LSC Act, Regulations and Audit and Accounting Guide, not only by the recipient but by any subgrantees. All of these funds have been audited (LASA audits for 1981, 1982 and 1983). These grant amounts were reported on to the LSC Regional Office in Denver on a quarterly basis by LASA.

Extensive financial records exist within LASA which document that these funds were utilized for the purposes they were intended and in conformity with the Act and Regulations.

In conclusion and in summing up my answers to the three questions, I reiterate:

- Rio Grande Associates and LAS of Albuquerque had a long-standing relationship with LSC. The people associated with both organizations were very experienced and nationally known and respected in all of these matters.
- The grant was made in order to insure that these projects were successfully completed with the appropriate safeguards attaching. Priority-setting, technical assistance, state support, and private attorney involvement were all critically important issues in 1981, and the LSC Board's decision to set funds aside for supporting programs in these endeavors was appropriate and productive.
- Funds were made available to NOSSU because LSC acknowledged the need for training, technical assistance, and information-sharing among the state support programs. Because training and technical assistance responsibilities were being transferred to entities outside of LSC, it was natural and appropriate that NOSSU would be designated as the entity with these responsibilities in the state support context. The funds made available to NOSSU for these activities have been appropriately and effectively utilized.
- By funding a recipient to carry-out these projects, the prohibitions in the Act and Regulations attached to all of these funds. Those prohibitions, as well as the grant conditions and assurances, applied to Rio Grande Associates as well. Because these grant conditions are more restrictive than those applicable to LSC contracts, LSC had even more protection than if it contracted directly with RGA.

The CHAIRMAN. I'm going to have to recess for just a short period of time so I can go up and vote in the Budget Committee. Let me just recess until I get back; it will be about 5 or 6 minutes.

[Short recess taken.]

The CHAIRMAN. Let me just get this going again.

I've got a lot of other questions on the Arango matter. I think what I'm going to do, because I've held you up so long, is to submit those to you; and if you'll button those down and answer them for me in writing, we can make the record that needs to be made on that particular issue.

Mr. BOGARD. Fine, we'd be delighted to.

The CHAIRMAN. OK. Now let me just ask you two more questions, and that happens to do with redistricting.

Have Corporation funds, Mr. Bogard, been used to finance local program involvement in congressional and State legislative redistricting following the 1980 census?

Mr. BOGARD. I think Mr. Thimell can respond to that.

The CHAIRMAN. OK. Mr. Thimell?

Mr. THIMELL. Yes, Mr. Chairman, it appears that they have, perhaps, in Texas, California, and New Mexico.

The CHAIRMAN. Do you know to what extent they have been used?

Mr. THIMELL. In Texas, money was set aside to buy a computer and program that with the 1980 census data to prepare them to submit their own redistricting plans in Texas. In California, they submitted a proposal suggesting that they tie their survival efforts in California to the reapportionment issue with the idea that, by working on redistricting, they would win friends in the legislature who would then support them on the legal services survival

The CHAIRMAN. Would you be kind enough to provide us with a complete report of the Corporation's involvement in these issues, say, within the next 2 weeks? Could you do that for us?

Mr. THIMELL. Yes, sir.

The CHAIRMAN. OK. If you'll give us a complete written report on that, I'm going to let you folks go.

I want to just personally express my appreciation, as chairman of this committee, for the efforts that you've put forth to be here today, the candor with which you've answered my questions. As you can see, I'm very upset about it. I happen to believe in legal services for the poor, but I happen to believe that when we put out millions and millions of dollars—and you're asking for $325 million this year, this next year—when we put out that kind of money it seems to me the taxpayers ought to have that money well managed. Now, I understand these problems occurred before you got there, but I really want you to follow up on some of these things because it seems to me there are some very improper activities going on, and I think it needs to be stopped.

I want to compliment you for being willing to get involved in this and to dig down and try and find these problems. It reminds me a little bit about Reagan getting criticized for his big Defense budget because they found a $9,000 hammer; and he said to me one day, he said, "Orrin, we're the ones who found it!" He said, "We're the ones who have really put the time in to find these things!" Well, that's what you're doing right now, and I just personally believe that in many areas of the country Legal Services is run very well, in the best interests of the Corporation, the Government, the taxpayers and the clients themselves. I believe this is true in the vast majority of areas, and I cited Utah as an illustration. But there are some of these cancer situations that we really have to cut out and get rid of, or at least reform, and I think you're well underway to doing that. I just want to personally thank you for that.

So thanks for being here. We'll let you go. I apologize for having you wait, but then the vote came up and I had to go meet that; so, thanks for coming.

Mr. **Bogard**. Thank you, Mr. Chairman, and for your continued interest in Legal Services Corporation.

The **Chairman**. Well, we do have an interest and we appreciate what you are trying to do, and we're certainly trying to help you here in this committee. Thank you.

Our final witness today will be Mr. Clarence McKee, a former Reagan appointee to the Board of the Legal Services Corporation.

Mr. McKee, if you will take the table.

Mr. McKee, you have a really extensive statement. I'd like to put that in the record, but I'd like you to really summarize if you can. I'm so pressured for time that your statement—the effort that you've put forth has been very helpful for the committee, and I just feel like I'd like to ask you just a few questions before it's all said and done.

STATEMENT OF CLARENCE V. McKEE, FORMER VICE CHAIRMAN, BOARD OF DIRECTORS, LEGAL SERVICES CORPORATION AND FORMER CHAIRMAN, BOARDS SPECIAL COMMITTEE ON GRANT AND CONTRACT PROCEDURES

Mr. **McKee**. I also have, Senator, a separate set of exhibits which you can put into the record. They are composed of transcripts of all of our hearings.

The **Chairman**. Do you want me to put those in the record?

Mr. **McKee**. That's right.

The **Chairman**. Without objection, we will put them in the record at the conclusion of your testimony.

Mr. **McKee**. It's a pleasure to be here today, Senator Hatch, to offer testimony to you and your committee. I want to commend you and Senator Denton, particularly, for your efforts in this regard.

As you recall 2 years ago, our's was the Board which was accused of being against the poor because we were trying to basically enforce the act and look into some of the things that you have discovered. Unfortunately, we have seen that the survival campaign, I think, has worked—there's been no confirmed Board for 3 years. We have a shadow government, a small, hard core group of what I call self-appointed, basically, white liberal apostles of the poor who utilize selective morality when it is convenient for their purposes—perpetuation of their system. Poor people in the program, in most cases I think, have been by and large victimized. I have a letter in here that I wanted to read into the record from a person on the east coast that I received in 1982. There were many of these communications and telephone calls received. Of course, most of the people wanted their names to remain anonymous because there was a degree of intimidation and a fear of reprisals that really surprised me.

This letter, in part, reads as follows:

> **Dear Mr. McKee**: Many of us have worked long and hard to bring about greater involvement of clients in the legal services movement. We have been used and misused by many of the very people who are supposed to be our advocates and our friends. The very agency or agencies that you would think would be our strongest advocate leaves a lot to be desired—

This is a reference to the clients' council—

> The Corporation gives NCC some money; we feel that this is just to keep other clients' organizations quiet. Everyone appears to be prospering on money that is supposed to be used to provide quality legal services to clients. Clients have received training, but there is very little they can do with the training. It is like a dead end. If clients become too vocal, they are harassed and discredited. But when legal services funding is threatened, suddenly they want all of the client participation they can get. As soon as the funds are restored, we go back to the same old frustrations.

And I was rather surprised at the number of project directors who would call me on the phone, suggesting the areas that we should look into. The fund balance issue, that we discovered on May 10, was only one. They did not want their names divulged because there was a little network out there composed basically of people who were holdovers from the Office of Economic Opportunity who went right into the legal services program. They may have meant well, but the two statutes were entirely different in intent. The Office of Economic Opportunity Act related to social reform, and changing basic structures. The Legal Services Act relates to delivering legal services support.

Therefore, you have many people, especially in the National Support Centers when we began investigating support centers that sent up a real flurry because that's where the troops are who have been there since the days of the Office of Economic Opportunity. They did and do not want the Corporation, the Board, or even Congress to take a look at some of these issues. It was "everything should remain the same." This is why we had hearings on these issues.

The documentation that you have discovered makes one thing very clear—we didn't know half of what was going on. It seems that every time we got close to the truth or to what might have been where some funds were going on how they were being utilized, our critics' voices became even louder. Many of the people in the legal services community, the Washington lobby group, have very good contacts with Members of the House and the Senate. It seemed as though they picked up the phone and suddenly hearings were called. The Oversight Hearing of the House of Representatives, out of which came the "red herring" issue of consulting fees, which took all the time and attention away from the fact that, at that time, we were trying to stop funds from being released without our approval, was a fine example.

All of these discussions you've been having about the transfer of funds in March and April 1982 have been news to me and I'm sure most members of the Board. Hence, it was a total shock.

I would urge you to read the transcripts of my May 10 hearing where we asked the National Legal Aid and Defenders Association [NLDA] how much money they were receiving. They said, "About

$1 million." It turns out that NLDA was receiving up to $3 million if when asked later NLDA was funding the Coalition for Legal Services—that great group of people who were so very expert at manipulating some Members of the Senate and Congress in terms of when not to show up to committee hearings—they said they didn't give them any money. Apparently they did. Mr. Eisenberg of NLDA told us in our meeting in Indianapolis: "Well, we may give them $5,000 total and some in kind." According to minutes of an NLDA's Board meeting Mr. Becker, president at that time, said the coalition had been given $20,000 to $30,000 in the last 2 years in one form or another of assistance or aid.

There is one matter I wanted to bring to your attention if you were unaware. After you had your hearings last year, Carlton Sherwood, then a reporter at channel 9, did a very extensive series on what you had discovered. He received a phone call from the staff of one of the Senators on your committee which he considered an attempt at censorship and intimidation.

The attorneys for some of the past officials of Legal Services Corporation even went to Channel 9 and talked to the management about his series. It was very vicious. If this had been coming from the conservative side of the political aisle, it would have been all over the media. I didn't know if you knew that this had occurred. Mr. Sherwood would probably be glad to tell you and the committee about that situation.

There were just so many things that happened that I won't go into all of them. For example, you know there was a lawsuit filed shortly after we were nominated. After all of the expense, it turned out that the President was vindicated and the courts determined that he had the right to make those recess appointments.

My basic conclusion is that the survival campaign has worked. You were discussing with Mr. Bogard why he couldn't do anything about certain matters. Well, last July Dan Bradley told everybody in your hearings the reason, and it related to the statute. He said that Mr. Alan Houseman knew more about Legal Services than anyone else and its legislative development because he and two or three other persons on the Senate committee staff wrote the Legal Services Act, which was written a long time ago and hasn't basically been changed. It seems that every time there's an effort to just change some things there's all this "flak"—people go to the papers and their friends in the press, the same press, I think, that—except for Jack Anderson today—has not reported a lot on what you have discovered.

I don't understand Members of the U.S. Senate who become so concerned over improprieties by other Government officials, or alleged improprieties, who will come to hearings as they did 2 years ago and receive intensive press coverage; and then when it is shown that poor people are really having some problems in terms of getting money, I notice that only you and Senator Denton show up here today. I noticed that last year, Senator Eagleton was, I think, the only Democratic Member who attended your hearing.

The CHAIRMAN. Senator Eagleton would have been here, but he had a conflict and sent his regrets. But he has been very faithful.

Mr. McKEE. Exactly. I noticed that from last year's record.

It is distressing that when it's convenient to raise "cain" against a certain segment, it's done; and when it's not, no one shows up. I'm sure that it's related to the fact that there's a Presidential election coming up. However, there are a lot of things that I would hope to be looked into down the line because there's much to be received and changed. For example my committee felt that the "sacred cow" National Support Center concept be totally reevaluated and possibly restructured because there was really no need to have 17 separate National Support Centers when the facts showed that client load, in terms of some of the centers, indicated there could be coordination a merge between centers.

No one seemed to be concerned about such matters.

Mr. Chairman, I think there's another area that you should investigate—and the Legal Services Union which is organizing all over the country. In trying to ascertain the relationship between the Legal Services Act, planning legal services for clients, and setting up a union of legal services workers, I found no reason for such a union. There are a lot of things to be investigated and it's just unfortunate that a small core of people is really "smiling and laughing" at this committee because it believes nothing's going to happen. Many people can thumb noses at a committee of the U.S. Senate and do so with impunity because they initiated a very well-orchestrated campaign with some of their allies in the Senate and in the press which diverted attention from their actions. It's very unfortunate.

There's one issue I definitely have to discuss and that is the racial overtones that I as a black person notice in certain matters. When I went to the Legal Services Corporation, people talked about "white liberals" in most management and leadership positions in the LSC structure trying to help the poor. Of course, there are some very well-meaning persons who are white and liberal in its program. However it's the same basic old structure and in many cases personnel of the so-called poverty programs of the 1960's and 1970's.

We looked at the 17 support centers and there were two black directors. In the State support centers, there was one black director. Of the regional directors, of the nine, I believe there were two blacks. There was a white individual heading the southern region—I understand he is now a consultant at NLADA, "the shadow LSC government"—I couldn't understand why in a region where there were so many poor and rural black clients and black project directors, that there was no black regional director. Our Board did place a black director there.

There are the subtleties in attitude such as "do as I say, folks," when it's convenient and some clients call the structure racist. I would urge you to view the video tape transcripts of our December 16 and 17 meeting of 1982 which was held at the Hyatt Regency here in Washington. When Mr. Olsen and Mr. Harvey were called before a House Oversight Committee which was I believe, a carefully orchestrated diversion—and they were criticized because we had our meeting at the Hyatt Regency. The reason that meeting was at the Hyatt Regency is because there were death threats on two members of the Board and Mr. Bogard. Mr. Bogard and Mr. Harvey had police protection for their families. This is one reason the meeting was held at the Hyatt Regency—for security. Another was the need for additional space in terms of the number of people expected.

I urge you to read the transcripts and view the video tape. It should be put in the record of your committee, including the profanities, the yelling, the screaming—it was a guerrilla theater. Those who attempted to disrupt the meeting knew it was "good timing". The Senate was about ready to vote on appropriations and much was going on. All of a sudden we were informed of the Weicker amendment restricting termination of funds which I think is a very, very unfortunate piece of legislation. I even question whether, if it were taken to the Supreme Court, whether it would withstand constitutional scrutiny. The result of that legislation is the Legal Services Corporation is a perpetual check-writing machine, and the people in all of these little agencies and organizations comprising the "network"—not the vast majority out in the field but the people in Washington and in some of the support centers—we are conducting a holding action, hoping, of course, that a Democratic administration comes into power and then they'll all be back at the Legal Services Corporation.

I think there was a great disservice to the American public in terms of what the real issues were in 1982. We and the public did not get the real truth. For example, if you read our various transcripts you're going to find questions that were asked of people in the Coalition for Legal Services to which they gave answers which turned out, from the documents you have uncovered, to be if not totally inaccurate, were certainly misleading. You're probably going to have the same problems.

The CHAIRMAN. We've had nothing but problems with this Corporation.

You're had a lot of experience with the Corporation, certainly as a result of your tenure as a member of the Board. Based upon your experience, do you feel that the existing system of having regional offices of the Corporation monitor the activities of local grantees provides enough thorough oversight, the oversight that this program needs so desparately?

Mr. MCKEE. No, I don't think it does. In fact, an exhibit in this package to be appended in the record is the actual report of my Special Committee on Grants and Contracts in December which has a discussion of regional offices.

In terms of the regional offices, the problem with the "fund transfers" back in March 1982, apparently, was that no prior Board approval. Theoretically, regional directors were supposed to be looking at all of these matters such as monitoring grants. Apparently this system has not totally been a success. It was rather a loose-knit, ad hoc operation. It has been under the decentralization and regional office structure that many of these things have occurred. There was a lack of accountability in Washington before we came to the Board. Under decentralization, training, support, and clearinghouse functions were done outside of the Corporation in the field. All of the money flowed outward.

At the end of my statement there's a quote from the Omaha Journal from 1982 quoting me as saying: "I think the money is being hidden from us." the regional office structure has not been that effective. It's created "fiefdoms" for individuals. I know that some of the project directors, particularly some black project directors, have expressed concerns about that structure. It creates the "old boy network" whose "eyes and ears" can keep track of what clients or project directors are doing if they disagree. I don't think it makes for an accountable system.

The CHAIRMAN. In a similar vein, do you feel that the $15 million that the Corporation currently spends on national and State support activities is a worthwhile expenditure of congressional funds?

Mr. MCKEE. Well, we don't know. You know, we tried to find that out through the hearings. And if you look at some of the Corporation evaluations of the support centers, look at some of the activities that were undertaken. I know there was one support center, the juvenile justice support center, where there was a question as to whether, under the Legal Services Act, it should be involved in criminal related activity representation. Cases for children in juvenile homes, et cetera, which is a commendable activity, but were not under the act, were being undertaken.

Based upon the caseload of the legal services programs generally, for example, I believe that 29 percent in 1981 were family cases, another 18 percent were income maintenance, another 17 percent were in the area of economic discrimination—you don't need 17 national support centers. These figures may not be exact but they serve as an example. There's some basic centers in housing that are definitely needed. However, I always thought that you could coordinate, combine, and restructure that entire mechanism—for example, do it "in-house" out of Washington through specific grants—but do not have 17 separate entities which do their are totally autonomous and, when could use it as a political mechanism in many cases such as having a Washington office. But support centers are the sacred cows of the structure. I mean, if you talk of getting "near" them in terms of review, you will have people yelling at you all day about how you're trying to kill the program and hurt the poor.

The Mississippi transcript gets into the support centers quite extensively.

The CHAIRMAN. Let me just ask one other question. I'd like to submit some questions in writing to you.

Mr. MCKEE. Good.

The CHAIRMAN. If you will answer them.

As you know, the committee received numerous documents indicating that the Corporation was involved in the creation and funding of the Coalition for Legal Services. Now, based upon your experience, do you feel that the Coalition would have come into being or would have been able to operate if it had not been funded, be it directly or indirectly, with Legal Services moneys?

Mr. MCKEE. Unless they went to the Ford Foundation or some other group to get money, it wouldn't have been established. And this was an issue that was of concern to me, to wit, that programs or legal services grantees were taking dues money or other money and setting up organizations like the Coalition for Legal Services—which was basically a lobby entity. It's staff was the Senate and House staff and the press in an effort, I believe, to discredit contacting some of the Board members. So, I doubt if it would have come into being without Legal Services money. I'm quite sure of that. And how much money went into it we still don't really know.

I think the Coalition for Legal Services really, as a few other organizations, even though they talk about trying to help poor people, really use the poor to protect their own vested interests and jobs. The Coalition's whole purpose, in my view, is to protect certain existing structures, to wit, support centers, the project advisory groups, and other groups that had been created. It's a great little network.

The CHAIRMAN. After sitting through these hearings on the Corporation, one can easily come away with the perception that there are really two Legal Services; a very large group that provides day-to-day legal aid to eligible clients, and a much smaller, but better paid, in-bred group that really sets the legal services community and its agenda, and this small select group, which is constantly meeting among themselves——

Mr. MCKEE. The "apostles."

The CHAIRMAN [continuing]. They are constantly contesting Corporation policy.

Did you come away from your experience on the Board with a similar perception?

Mr. MCKEE. Oh, it's the "tail wagging the dog" and it's a pretty big tail when you can wag the U.S. Senate, the House of Representatives, the New York Times, the Washington Post, and the major press services. And it has been very effective. I think that 1 or 2 years from today, unless the other Senators on this committee, show the interest that you, Senator Eagleton and Senator Denton have—it's going to be the same old story. Looking back since 1967 or 1968, the odds are that nothing's really going to change.

The CHAIRMAN. Well, I hope you're wrong, because I really believe that we're shortchanging the poor if we don't make things change. We put some reforms in last year that I'm hopeful will help whoever is the head of Legal Services. And I can tell you, I don't intend to go away, so even if I'm no longer chairman of this committee I'll still have a lot to say on what really happens.

Mr. MCKEE. I may——

The CHAIRMAN. I have to believe that members of this committee want to see this Corporation function properly in the best interests of the country and the best interests of the poor, but I guess only time's going to tell on that.

Mr. MCKEE. One last point. The key thing in the recommendations made in December 1982 on funding policy was and still is that the funding policy by statute should be changed to make sure that funds go directly from the Corporation to entities as opposed to grants to NLADA and grants to support centers. In other words, funding centralized to the maximum extent possible. Therefore, there can be control and accountability. If it can be done by other means, fine; but it's got to be brought under control.

The CHAIRMAN. That's a good suggestion. I hope we're able to implement some things like that.

Well, Mr. McKee, I want to thank you. I appreciate your statement. It's an excellent statement, and it's extensive, and I appreciate both the written and the oral——

Mr. McKEE. And I didn't get any consulting fees for writing it.

The CHAIRMAN. Thanks, my friend.

[The prepared statement and additional material of Mr. McKee, and additional material supplied for the record follow:]

Testimony of Clarence V. McKee, Esq.

Former Vice Chairman, Board of Directors,
Legal Services Corporation, and Former
Chairman of the Boards Special Committee
On Grant and Contract Procedures

Chairman Hatch and members of the Committee, it is a pleasure and an honor to testify today before your Committee as it exercises its continuing oversight responsibilities into the Legal Services Corporation.

As the former Vice Chairman of the Board of Directors of the Corporation, and former Chairman of its Special Committee on Grant and Contract Procedures, I wish to commend you, and Senator Denton and your staffs for the very excellent and responsible effort in Congressional oversight undertaken vis-a-vis activities and utilization of funds in the legal services program. I also wish to state that we all owe a debt of gratitude to Don Bogard for his perserverance.

The Legal Services Corporation Act of 1974 as amended in 1977, and the changes thereto embodied in various Continuing Resolutions govern the use of Congressionally-appropriated funds for the delivery of legal services to eligible clients. Congress has stated as the first purpose of the Act the need "to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances". 42 U.S.C. §2996(1). It further provides that there is a need for "high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel. 42 U.S.C. §2996 (2). Legal Assistance is defined as "the provision of any legal services consistent with the purposes and provisions of this title" with a directive to the Corporation to, inter alia, "insure that grants and contracts are made so as to provide the most economical and effective delivery of legal assistance..." 42 U.S.C. §2996(a) and U.S.C. §2996(f) respectively.

Accordingly, the Powers, Duties, and Limitations section of the

Act supports the view that appropriations thereunder be channeled only into those sources necessary to facilitate the direct delivery of legal assistance:

> (1)(A)[the Corporation is authorized--] to provide financial assistance to qualified programs furnishing legal assistance to eligible clients, and to make grants to and contracts with [certain authorized entities] for the purpose of providing legal assistance to eligible clients under this title, and (B) to make such other grants and contracts as are necessary [emphasis added] to carry the purposes and provisions of this title;...
>
> (3) to undertake directly, or by grant or contract, the following activities relating to the delivery of legal assistance --
>
> > (A) research, except that broad general legal or policy research unrelated to representation of eligible clients may not be undertaken by grant or contract,
> >
> > (B) training and technical assisance, and
> >
> > (C) to serve as a clearinghouse for information. [42 U.S.C. §2996(e).]

Many of the frustrations, problems and controversy which surrounded our Board's attempts to implement the Act were created by an unwillingness of some persons within and without the legal services community to distinguish between the purposes and intent of the Act and the purposes and intent of the 1964 Economic Opportunity Act. The statutory purpose of the Economic Opportunity Act and Community Action Programs under whose direction Legal Services was established was to enable low-income families and individuals to attain the skills, motivations and opportunities for them to be "fully self-sufficient".* The Legal Services Act, however, has its goals the objective set forth above.

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* Economic Opportunity Act of 1964, 42 U.S.C. §278(a)(1977).

Consequently, many in the legal services community perceived themselves as "strategists" in the war on poverty seeking to use legal services to address major "social significance areas with the result being that law reform, ideology and political viewpoint, eclipsed individual service".** My Special Committee on Grants and Contracts came to believe that the legal services community had mistakenly continued to view its and the Corporation's mission in the same context. The term "national policy representation" with regard to National Support Centers was an example of the continuation of this view. The fact that several National Support Centers and some of their personnel were originally grantees and employees of the old Office of Economic Opportunity, and merely switched from OEO to LSC for continued financial existence, lends credence to this allegation.

As a consequence of the above philosophy, there has been little if any change in the basic structure of the Legal Services Program since the inception of the Corporation. Basic mechanisms, vehicles and structures for provision of legal services under the Act have not substantially changed other than the decentralizaiton of training and technical assistance functions which occured for dubious reasons before our Board came into power. In addition, leadership and philosophy in these structures -- at the Corporation and in Congress -- had not undergone basic reevaluations or constructive change. We found that the existing structure was considered to be a "sacred cow" by many and suggestions for constructive change to conform with Congressional intent had been and continues to be resis-

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** See, generally, Breger "Legal Aid for the Poor: A Conceptual Analysis", 60 North Carolina Law Review, No. 2 January (1982).

ted by many segments of the legal services community and their allies who, in many instances, have been confused by those who imply that reform or change is to be equated with being "against the poor" or for "abolition of the program." Unfortunately, some Members of Congress and segments of the press were falsely led to adhere to that point of view.

The true victims of this unwillingness by many to seek alternative mechanisms, structures and vehicles for the provision of legal assistance to eligible clients are the clients themselves. Accordingly, my Committee recommended that, regardless of attacks on the integrity, character and philosophy of Board members because of differing viewpoints on implementing reform and constructive change, that our and subsequent Boards move to initiate and make necessary changes in policy to assure efficient and effective delivery of legal services to clients within the scope and intent of our Congressional mandate. The grant-making authority of the Corporation was further limited when Congress required that the Corporation shall "insure that grants and contracts are made so as to provide the most economical and effective delivery of legal assistance to persons in both urban and rural areas." (emphasis added.) 42 U.S.C. §2996f[3]. The Congress specifically mandated that the Corporation shall "insure that (i) recipients, consistent with goals established by the Corporation, adopt procedures for determining and implementing priorities for the provision of such assistance...; and (ii) appropriate training and support services are provided in order to provide such assistance to such significant segments of the population of eligible clients". 42 U.S.C. §2996f(2)(C).

We believed that where savings could be made with the curtailment of unnecessary or duplicitous programs, these funds should be applied to meet more pressing needs in the local delivery of legal services, especially where budget cutbacks of recent years have forced the closing of local offices. Therefore, one of the most important recommendations our Committee made to the Board in December of 1982 was a redefinition of funding policy as follows:

> That in order to insure that the delivery of legal services to eligible clients is handled in the most economical, efficient and effective manner; and to further insure greater flexibility and accountability in the expenditure and utilization of Corporation funds, it shall be the policy of the Corporation whenever and wherever possible, to provide financial assistance directly to local legal services programs and to undertake directly itself activities related to training, education, technical assistance, clearinghouse functions and support activities related to the provision of legal services to local program attorneys and eligible clients. Where necessary and feasible, the Corporation may make such other grants and contracts as will assist in the implementation of the objective of the Act. In making such grants and contracts, the Corporation shall endeavor to explore and review alternative mechanisms and structures and shall, to the extent possible, seek competitive bids and proposals from a variety of institutions, organizations, and entities.*

I would strongly recommend this language be reflected in an amendment to the Legal Services Act. The Special Committee made several other recommendations, some of which were adopted, in the areas of payment of dues to outside organizations, provisions of specific amounts of private bar involvement funds to minority bar associations, investigation of having the Corporation itself provide malpractice insurance for program attorneys rather than the National Legal Aid and Defender Association, a total review of the role of National and State Support Centers as the most effective means for provision of support services for programs and greater client involvement in local programs. I will address some of these recommendations later in my testimony. I am submitting a copy of my December 16, 1982 Report for incorporation into the record as Exhibit A.

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* See, Report of the Special Committee on Grant and Contract Procedures, December 16, 1982, at page 6.

Before I continue and discuss what turned out to be a massive effort to hide information and often misinform our Board as to what the true facts were, it is important to let this Committee know the atmosphere in which our Board had to carry out its legislative mandate.

As you know Mr. Chairman, history and the record clearly show that the period between December 1981 and December 1982 was marked by vicious character assasination, criticism and outright viciousness directed at certain active members of the Board. It was part of a well orchestrated plan and plot by the "Legal Service Generals" spearheaded by their Coalition for Legal Services, and its members, to inhibit and stall our own investigative efforts, damage our credibility and that of the President of the United States who had appointed and nominated us -- and to maintain their own positions and structures.

At that time, we were unaware of the so-called "Survival Plan" which had been initiated by Legal Services leadership in 1981 which this Committee subsequently uncovered. Nothwithstanding prohibitions against lobbying, the Coalition For Legal Service included the National Legal Aid and Defender Association (NLDA), Project Advisory Group (PAG), National Clients Council (NCC), the National Organization of Legal Services Workers (NOLSW), and the Minority Caucus (MC) most of whom directly or indirectly received LSC funds.

In retrospect, Mr. Chairman, this Survival Campaign did and has worked with cooperation from much of the press and even members of the House and Senate. Effective investigation was inhibited, there has been no confirmed Board in place since 1981 and the basic structures and mechanisms of funding, such as National Support Centers, still remain nothwithstanding our Committee's view that there should be restructuring of such entities to better serve the needs of clients. This has been aided and abetted by Congressional Resolutions passed by a House and Senate whose Members, with a few exceptions, have looked the other way when it came to the viewpoint of those of us who were the object of attack by the Survival Campaign and its agents.

The real tragedy of this situation, including revelations of questionable legal activities, misstatements of the truth before our Board's committees, and perhaps even before this Committee, is that the press which was so eager to crucify our Board shows little interest in pursuing questions of impropriety which you and Senator Denton have brought out in your hearings.

I find it almost impossible to believe Mr. Chairman, that people have refused to honor your request to testify before your Committee and are free to do so with little or no press attention and little concern of most Senators on your Committee. This lack of concern only serves to hurt the poor since its their funds which were used in a variety of ways to launch and maintain the Coalitition's efforts. Once again, it is the old story of using and defending the poor when it is convenient for press attention, or political advantage.

How were our efforts impeded and how did the "Legal Services Generals" and "self-appointed apostles of the poor" manipulate the press and much of the U.S. Senate and House of Representatives? All they did was carry out their plan which, in essence, was "get to the media and Congress".

You will recall that shortly after we were appointed by the

President, and during the subsequent period, the Coalition and their agents went to work to destroy our credibility, nothwithstanding the fact that all members of the Board had affirmed our support of legal services to the poor.

My first contact with the Coalition and the Legal Services community was a letter from the Coalition telling me that I should not accept the President's appointment because he had no authority to make recess appointments to the Board. The campaign had begun! Shortly thereafter, in January-February of 1982, some members of the Carter-Mondale Board filed a law suit attempting to prevent us from exercising our duties. The suit was subsequently found to have no merit by the Courts but not until the Department of Justice had spent many attorney-hours defending against the action.

Subsequently, that same Coalition and its agents and other "Apostles" went to work to delay the Senate Confirmation process through attacks on the character, commitment and integrity of some nominees/appointees with excellent cooperation from the nation's press.

Concurrent with these efforts, the Coalition's network was able to create an environment of fear and hostility among the clients of the program toward the Board and actively worked to impede and stall the Board's own investigative and oversight efforts. In retrospect, it is very clear why such efforts were launched -- there was much to be discovered as to where LSC dollars were going, and to whom and for what purposes.

I believe that the record will reflect that much of the attack and "networking" by elements in the legal services community began with a steady crescendo in May of 1982 when I announced that my Special

Committee was going to have a hearing to investigate fund balances, National Support Centers and contracts/consultants -- all three being "sacred cows" to the legal services leadership. We now know why. A copy of my opening statement and the Minutes of that meeting are submitted herewtih as Exhibit B.

Please note that I specifically stated in my opening remarks that the issue before my Committee was:

> "is the present grant and contract process providing the most economical and effective delivery of legal assistance to the poor? If not, why not? If it is doing an adequate job, can that performance be improved in this grant/contract process.

Mr. Chairman, I am pleased that it was as a result of that meeting that the question of $41 million fund balances/carryover's was discovered.

Unfortunately Mr. Chairman, it has been subsequently discovered that we were not told the entire truth about certain other funds at that meeting with reference to funds received by the National Legal Aid and Defender Association -- a key component of the Coalition.

The minutes reflect that Mr. Eisenberg, Executive Director of the NLDA stated, in response to my question regarding activities of grantees, that "overall the grants and contracts awarded by LSC had been kept within legal bounds."* We now know that may not have been quite the case.

In response to my question as to how much funding NLDA had received from LSC, Mr. Eisenberg stated that NLDA had received a grant for "technical" assistance totalling $1,000,000.** However, information subsequently made available to your Committee Mr.

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* May 10, 1982 Minutes, Page 7.

** Id.

Chairman indicate that, between 1981-1982, NLDA had received nearly $3 million in LSC Grants -- exclusive of funds for the malpractice insurance program which it supplies for LSC program attorneys -- a practice which my Committee recommended should be investigated and I would urge you to do so.

Hence, even at the early date, we were misinformed in our investigative efforts.

Another glaring example of how we were misinformed occurred in October of 1982 at a Joint Meeting of our Committee on the Provision of Legal Services -- chaired by William Harvey, and my special Committee on Grant and Contract Procedures held in Indianapolis, Indiana. (Exhibit C). We had asked representatives of NLDA, the Coalition For Legal Services, Project Advisory Group and others to appear and discuss the function and funding of their organizations.

When Mr. Eisenberg of NLDA was asked by Board Member William Olson about NLDA funding to the Coalition For Legal Services, Mr. Eisenberg stated that NLDA had provided only "$5,000 over a two year period total".* Furthermore, Mr. Eisenberg stated to our committees that "there may be some in-kind"** referring to in-kind contribution. However, a review of the NLDA Board minutes of August 1, 1982 -- which was obtained by this Committee -- shows that one month before our meeting the Board President, Jerrold L. Becker, told the Board that NLDA had provided the Coalition between $20,000 - $30,000 in indirect services in both 1981 and 1982. The minutes also reflect that the Board moved to pay up to $10,000 for the Coalition's 1982 telephone bill. Again we were not quite given the facts.

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* Page 152 of October 16, Transcript.

** Id.

The transcript of our October meeting reveals that there was no question that LSC funds were going to these outside groups for a variety of purposes -- not for providing direct legal assistance to clients -- and the sources and use of those funds was a well guarded secret within these groups.

Another area where our Board was not totally given the facts and caused us to operate in a vacuum, was in the area of transfers of funds. On March 5, 1982, the Board of Directors adopted a resolution regarding funding procedures. Under that resolution, no new grant or contract obligation to recipients was to be incurred pending further actions by the Board. The LSC President was directed to ensure that no recipient funds be transferred to any entity other than the recipient without the prior, written approval of the corporation. The President was further directed to investigate past instances of such transfers and report to the Board regarding such transfers.

In a memo to the regional directors dated March 15, 1982, Mr. Clinton Lyons had asked the regional directors to inform him by April 16, 1982 whether or not any recipient within particular regions had transferred corporate funds to other entities since January 1, 1981. A transfer was to include any grant or contract in excess of $5,000 between the recipient and another entity by which the other entity would conduct activities which normally would be undertaken by the direct LSC grantee. In a memo dated June 30, 1982, which I have subsequently been able to read and which was not available to me in 1982, sent to all regional directors by Mr. Askew he stated: "as you know, current corporation policy does not require prior approval for the transfer of funds by recipients to another entity.

Such matters have been left to the discretion of local boards and managers consistent with the acts and regulations...." The entire matter of lack of accountability in the history of this Corporation is a matter addressed by my Committee and which needs thorough review by the present LSC administration as well as this Committee. Mr. Askew's memo further outlined a list of transfers which were found to have occurred. These included a $62,000 transfer of funds to a subrecipient called Advocacy, Inc., $25,000 to a juvenile law center, $98,000 to the Alabama Council of Human Relations, $100,000 to the Poverty, Education and Research Center, and $104,000 to the Migrant Legal Action Program, Inc. and the Farm Worker Justice Fund, Inc. Earlier, in April of 1982, Mr. Askew had received a memorandum from the Denver Regional Office listing several transfers of funds through contract or agreement including the following: $20,500 to be paid in semi-monthly installments for a variety of services including representation of clients before state legislative and administrative agencies; $20,500 paid in the same manner for the same purposes; a $100,000 contract from the Texas Legal Services Center with the Poverty, Education and Research Center, Inc.; and an $822,000 contract to the Texas Rural Legal Foundation, Inc.

Mr. Chairman, many of these contracts could have been very well meaning and they could have been initiated without any intent or design to subvert the legal services Act or to "squirrel" funds. However, the real issue here is the fact that such funds were transferred without any control mechanism or structure whereby the Washington Headquarters of Legal Services Corporation was informed. Most importantly in terms of our discussion, is the fact that, to the best of my knowledge, no member of the board of directors of

1982, and particularly myself or any member of the Committee on Grants and Contracts Procedures, was made aware of such transfers.

As you review the May 10th hearing which I conducted on various issues, you will note that a specific area of inquiry was "contracts/consultants". Keeping in mind that it could have been interpreted that all that we were looking for were contracts directly from our corporation headquarters to outside contractors, it seems to me that given the newness of our positions that any intelligent reflection upon the information that we wanted would have required that we were to be informed of all cont-acts and grants of this nature, particularly when it was in response to a Board request for information. At no hearing of any of the Board Committees, to the best of my knowledge, was this information given to the Board.

Given the fact that the existing regulations of the Board at that time did not require any prior approval of these transfers, it seems only natural that, in the Joint meeting of the Committees in October, that our discussion with the regional directors from the Chicago, Denver and Seattle and Northern Virginia Regional Offices, would have elicited information regarding how the regional office functioned in terms of such funds, -- especially since only a few months earlier there had been a request from corporation staff on this matter to Regional Directors. However, the issue was never raised by any Regional Director who was present and, because we and the Board knew nothing of such transfers, we of course did not ask.

It is very clear that if the members of the Board conducting various hearings throughout this country had not taken an inordinate amount of time reviewing pages and pages of documents on our own that were available, we would not have compiled the vast record that we did. I particularly wish to commend members Harvey and Olson for their diligence and hard work in pursuing these matters at these hearings. Indeed, as you have certainly discovered, we were only able to barely scratch the surface. For that little bit of scratching we were able to accomplish much in that short period of time. For that, we were criticized for being "against the poor" and for trying to abolish the program. We wanted to look into the concept of national support centers as we did in my hearings in the state of Mississippi in August of 1982 (Exhibit D, attached). The "cry" came out in the Legal Services Community that we were trying to destroy national support centers.

Mr. Chairman, I could not discuss this matter today without making reference to our final board meeting in December of 1982. First of all, you should realize that when Mr. Olson and Mr. Harvey appeared before the House of Representatives, they were highly criticized because we decided to have our final board meeting at the Hyatt Regency Hotel in Washington, D.C. What Mr. Harvey and Mr. Olson did not tell the Committee at that time because they did not feel that it was necessary, was the fact that one of the main reasons for taking that hearing to the Hyatt Regency was the need for additional security due to threats against the life of at least 2 members of the Board as well as Mr. Bogard, and his family. I am enclosing a copy of the transcript of that hearing as Exhibit E for your records so that you will be able to understand exactly under what circumstances and atmosphere we had to conduct and carry out our duties. There were outbursts from the audience, profanities shouted by attorneys from the legal services program, and there was every effort made to impede the progress of that meeting as well as put on a great show and "theatre" for the members of the press. Because we knew exactly what might occur, we decided to have the entire two day hearing of December 16 and December 17, 1982 video taped. I would urge you Senator and any member of the Senate who wishes to see it to review those video tapes to see for yourselves what we were up against.

It is really a shame that, for one year, a small group of people who considered themselves and their programs beyond review, reproach or inquiry by anyone but those they considered friends were able to impede the confirmation process and effective Board oversight. Most of these people felt that their viewpoints were the only correct viewpoints and that any person who would disagree with options and alternatives were out "to get the poor". The meetings of my committee and that of Chairman Harvey raised questions as to how funds were being used, the role, function and activities of national support centers, as well as to what extent and why LSC funds or indirect benefits were going to outside organizations not providing direct legal services to the poor. For these efforts, we were constantly attacked and, even more importantly, three of our members -- Mr. Harvey, Mr. Olson and Mr. Parras, -- were held hostage as a price for the confirmation of the rest of us. I am pleased that the President of the United States held firm and did not compromise on the Confirmation issue.

The record will reflect a close parallel between Board Committee efforts to question the use and expenditure of funds of recipients and the negative publicity in the Congress and the press against certain board members. It was not a matter of mere "coincidence" that Mr. Harvey and Mr. Olson were called before a House "oversight" committee after Chairman Harvey had taken action to reemphasize to all grantees that no 1983 grants would be issued without Board approval and after he and Mr. Olson had proposed controversial regulations to restrict class action suits. Those in the Coalition for Legal services, with knowing or unknowing assistance from the press and the staffs of certain Congressional Committees, always seemed to orchestrate a scenario whereby when the Board "got too close", some other matter arose to divert attention of the American people from the true issues.

As you know those House hearings led to the red-herring and "smokescreen" issue of consulting fees and an attack on the Board's choice in the selection of Mr. Bogard as its President. The press, certain Congressional critics of the Board, of Mr. Bogard and of the President of the United States had a field day! This eventually led, as I referred to earlier, to a prohibition in the LSC continuing resolution against terminating the funds or grantees until a Board was confirmed. The survival campaign had worked again! Unwittingly the Congress of the United States had provided certain segments of the legal services heirarchy with a "safety net" whereby it was most difficult to deny refunding and created a situation where the board was virtually paralyzed in that regard.

As a former staff member of two U.S. Senate Committees, I consider the Congressional oversight process to fundamental, basic, and essential to good government. The efforts undertaken by the "legal services generals", self-appointed "apostles of the poor", and the legal services "network" to create a smoke-screen of confusion, innuendo and distortion of fact for the press and Congess regarding the real goals of the 1980 Board, was detrimental to that process and basic administrative procedure. Even more unfortunate is the fact that the legal services lobby was able to enlist, even if unwittingly, many quarters of the national press, the House of Representatives, the United States Senate, The American Bar Association and others in its campaign. And today, all is well with those who launched this effort.

To conclude Mr. Chairman, I could not terminate my discussion without a few remarks regarding the racial overtones and implications of this entire process of the last few years. I noted with interest that most of the leaders of the legal services survival campaign both within and without the legal services corporation were white. When I started reviewing the National Support Center structure, I noticed with interest and raised the question as to why -- out of 17 national support centers -- there were only 2 black Directors. In the area of state support, there was only 1 black person out of 26 State Support Center directors who were black. In the 9 Regions, out of the 9 Regional Directors at the time we came aboard, I believe there were only 2 blacks. In fact, the Director of the Southern region in Atlanta was a white man and it seemed rather ironic for that to be the case when there were so many black clients in the Southern states and a great number of black project directors. Our Board did place a black Director in that position and made Mr. Lyons a Vice President. I also wondered why the minority caucus, which became a key part of the Coalition For Legal Services had not been active in this issue. The answer seemingly was obvious. The legal services generals dished out the money, set up their own lobby operation and set their strategy to determine what was best for the poor people and blacks in the program. It was the same old story of them saying, "just sit back and be quiet poor people, we will tell you what is good for you; we will tell you who your friends are".

Mr. Chairman, I still believe that a certain degree of the hostility directed toward me, as the black Vice Chairman, was because I did not fall "hook, line and sinker" for the "business as usual" practice of many of these self annointed white "apostles of the poor".

I have always been sensitive to and question the motives of those white persons who on one hand tell you how liberal they are and on the other hand have few blacks in their organizations other than those who express agreement. My views were affirmed by conversations in private with black clients and some black attorneys in the program on several occasions.

A black client once told me that she had considered the entire LSC structure -- headquarters, Regional Offices, Support Centers, etc. -- as "racist as it could be". On another occasion, I was told that the "leadership of the legal services community had a liberal-minded white mentality". They wanted clients to "be seen and only heard when it would look good for some friends or receive good press".

In this regard, I noted often to my colleagues and the board that I had had many communications from clients themselves telling us to proceed and that there were many problems in the legal services community. However, they were very clear in making certain that their names would not be revealed because of reprisals. The same applied for both black and white project directors in the legal services program around this country who had called me saying, "pursue your investigations because there's a lot to be discovered". They too did not want their names revealed. There was fear and outright intimidation because the "network" which had been in control since the days of the OEO were going to make sure that only their friends and sympathizers were to have any positions of authority and influence. An example of such a communication was a letter to me dated August 30, 1982 from a Northeastern State Client's Council. I would like to read excerpts from this letter excluding certain references to names where necessary. It reads as follows:

> "Dear Mr. McKee:
>
> Since hearing of your appointment to the L.S.C. Board of Directors, I have heard many rumors as with any appointee anywhere. Since then, (name deleted) and I have talked and I was privileged to read a copy of your speech to the Louisiana State Client's Council. Now I feel as though the clients have found a friend.
>
> Many of us have worked long and hard to bring about greater involvement of clients in the legal services movement. We have been used and misused by many of the very people who are supposed to be our advocates and our friends. The very agency or agencies that you would think would be our strongest advocate, leaves a lot to be desired (N.C.C.).
>
> The corporation gives N.C.C. some money we feel that this is just to keep other clients' organizations quiet. Everyone appears to be prospering on money that is supposed to be used to provide quality legal services to clients.
>
> Clients have received training but there is very little they can do with the training. It is like a dead end if clients become too vocal, they are harassed and discredited. But when Legal Services' funding is threatened suddenly they want all the client participation they can get. As soon as the funds are restored, we go back to the same old frustrations..." (emphasis added).

I do not feel that I should devulge the name of the client's council in question since the letter was written to me in confidence for fear of reprisals. Many of the clients are not in a position to risk offending some of the people who have been directing the survival campaign. If Carlton Sherwood, formerly of WDVM-TV, Channel 9 here in Washington, received calls from the staff of a member of this Committee regarding his investigative reports following your hearings' and if attorneys representing past officials of the LSC went to his station's management in an effort to censor and intimidate his efforts, you can understand why some clients and some project directors would be reluctant to have their names divulged.

I only brought this letter and these comments to your attention so that you would know that there were people who were telling me and other members of the Board that our efforts were not in vain and that we should proceed. This did give us a bit of encouragement notwithstanding all the other negatives.

I do hope that you will continue your efforts to look into this issue, and I applaud you and Senator Denton for your diligence and the judicious exercise of Congressional oversight which has been long overdue in this program. It is only form such legislative and administrative oversight that the mission of the legal services program and its Congressional mandate to truly serve the poor people of this country can be achieved. The clients of the program and the legislative process will be the real beneficiaries of your actions nothwithstanding the disinterest which is presently being shown by other members of your Committee and the press on this issue. I would be pleased to answer any questions.

Omaha World-Herald
OMAHA, NEBR.
(EVENING) D. 109,780

JUL 27 1982

EDITORIAL

Are There Other Unspent Funds?

6520

It's common practice, when a budget for a branch of government is trimmed, to cut back or eliminate one of the most popular activities of the agency. This brings pressure that sometimes restores funds.

But now comes a different wrinkle from the Legal Services Corp.

New members of the board, awaiting confirmation by the Senate, were shocked recently to learn the corporation has $41 million in unspent money from fiscal 1981. That's about a fifth of all the money the corporation disbursed during that period.

Clarence McKee, a Washington attorney appointed to the board by President Reagan, said he thought the money was "hidden — sent out to the field so we (the incoming board members) don't know about it."

Regardless of the explanation for the handsome surplus, this revelation leaves one to wonder what other boards or investigators might find if they poked further into the finances of the multitude of other agencies.

A

LEGAL SERVICES CORPORATION

Remarks of Clarence V. McKee, Esq., Member
of the Board of Directors, Legal Services Corporation

Before the

LOUISIANA STATEWIDE CLIENT COUNCIL

Regency Hotel

Shreveport, Louisiana

May 28, 1982

LEGAL SERVICES CORPORATION

THE CLIENT'S ROLE IN THE LEGAL SERVICES PROGRAM

It is a great honor and pleasure to be invited as your Banquet speaker this evening.

Since President Reagan granted me a Recess Appointment to, and subsequently nominated me to the Board of Directors, I have been asked to speak before several organizations. However, I promised myself that my first appearance before any group or organization within the Legal Services Community would be before an organization composed of and representing the clients for whom this program exists, and without which it would not exist. Therefore, I thank all of you and particularly Ms. Hamilton, for inviting me.

There are many issues which I could address this evening. However, I have decided to limit my remarks to my views on your role as clients in this program. I am the first to admit that I owe my present position to only two entities: you, the clients, because the program is designed to serve you; and President Reagan who made it possible for me to be on the Board.

What issues face us in the legal services community? What problems must be addressed? What is the mechanism or mechanisms for achieving the most economical and efficient delivery of legal services to eligible clients? These and many more questions face the new Board and you as clients.

Directors of any corporation have a duty to its stockholders or members to exercise good faith, loyalty and commitment in exercising their duties and responsibilities. In this case, you are the members/ or stockholders to whom we as directors owe that duty. We must enforce the law and implement the regulations of the Legal Services Corporation for the benefit of the client whom we serve as well as the taxpayers of the United States who are paying the bill.

In this regard, my first duty is to set the record straight as to the new Board and its commitment to you, the clients of this program. Since our appointments,you have been flooded with literature, newspaper articles and editorials, and "gossip" concerning the "demise of the corporation" by the new "Reagan Board". You have read and heard of lawsuits instituted to keep this Board from exercising its duties. What you have not read and have not been told is who ultimately must bear the costs of lawsuits and delays in terms of dollars, time and lost hours which could have been dedicated to having this Board proceed to do its job under the law.

You have read, as have I, how this Board has been attacked as a group and, in some cases, as individuals. Notwithstanding the fact that, to a person, every member of the Board has indicated his and her support for the goals and purposes of the Act, a "rumor mill"of anxiety and of actual fear, anger and depression has swept through client and field community of this program.

Therefore, I want you to know that the real facts have been distorted during the past several months. Because of the blurring of facts and the "storms" of protest challenging credibility of appointees -- even after they have made clear their commitment, we are fast approaching the end of the Corporation's fiscal year and, as of this date, the nominees have yet to be confirmed. But for the Recess Appointment of the President there would be even more uncertainty than apparently exists now.

Let me inform you tonight that this Board is comprised of dedicated people. They are committed to serving your needs by implementing the laws and the regulations. It is a Board with which you can and should have a dialogue.

Therefore, from this moment on, the time has come to end the bitterness which has evolved; the uncertainties regarding commitment of this Board. It is time for you to make sure that those who inform you of what is going on in Washington are giving you the real facts. When you read in a major newspaper: "the new Board that Reagan has appointed to run the Corporation is controlled by men who have opposed the Corporation in the past or have opposed suits filed on behalf of the poor or minorities", you should be told that it is not an accurate statement or representation of the facts. When you read or hear that a nationally known columnist has stated that "Mr. Reagan is naming a new, conservative Board of Directors who will harass, restrict and undermine Legal Services so that none of its lawyers can cause real trouble for the lords of entrenched greed", you should know that it is not true and that those who provided reporters with such false information apparently are more concerned with their own futures than with accuracy.

This program was not created to foster social or political advocacy by those who had no other vehicle, or who were in a "shadow" government", or who had their own agenda's -- it was created to provide access to you to the legal system of this nation and to protect your rights under the United States Constitution. If, in doing so, the indirect or direct effect was to effectuate change in public policies, or to offend vested interests, then so be it. The Consitution makes no distinctions as to who you can or can not offend, whether it be a governmental or private interest.

As I have listened to witnesses before the Board and its committees, I have become concerned when so many people in this program tell us "do not touch the rules"; "do not tinker with the regulations"; "you do not need to concentrate on this or that problem or issue". It makes me suspicious as it should you.

Clients of this program must be the "watchdogs" and "guardians" of this program in terms of its effectiveness and service. We have corporate staff, project staff, staff of contractors, support center staff, all of whom are under the "legal services" umbrella, and who comprise the recipients of $241,000,000--for your benefit. You, the clients, must tell us on the Board in Washington, those on local boards, and those at the Regional level, your views on how that money is and has been utilized. If you do not approve of how and where it is being spent, or if you do, let us and the other entities mentioned know. I believe in local control of programs. It is necessary; it is important; and it is required. However, I also believe that we as Members of the Board, with a statutory obligation and duty to insure that the purposes and goals of the Act are being implemented by our grantees and contractors, can not and should not sit with our hands on the chair while the program marches on. That would be unfair to you and would be a breach of our duty.

I would now like to discuss a few important issues -- client representation, accountability of programs to clients, and finally, lobbying by recipients of Corporation funds.

Under the Act, the Corporation is directed to insure that "recipients...adopt procedures for determining and implementing priorities" for the provision of legal assistance "taking into account the relative needs of eligible clients for such assistance". Our regulations implement that mandate by requiring governing bodies at the local level to "establish and enforce broad policies governing the operation of a recipient".

The crucial and operative language of both the statute and our regulations are "accountable to clients", "needs of eligible clients" and "implement priorities". Accordingly, as a Board member, I am most interested in the answers the clients of individual programs throughout this nation and here in Louisiana would have to the following questions:

--Are our grantees generally accountable to you?

--Do local boards respond to client's views and needs in establishing priorities for the program?

--What role does and should clients on local governing boards play in establishing local priorities of service?

--Is there any problem of clients being "overpowered" and having to take a "back-seat" in establishing local priorities?

--Are clients having any input into discussions regarding a local program's "surplus/carryover/fund-balance"?

--Are clients being consulted, or do they have a say as to whether a carryover should be used for purchase of a building/office, or whether it should be used for direct legal assistance to more clients?

--Are clients having input into the program's budgetary process and decisions regarding the utilization of funds which have been "carried over"?

--Are clients concerned and asking about the fund balance and carryovers and why they continue to exist at levels beyond 15%?

--If, due to limited resources, a choice must be made between client cases regarding food stamps, medicaid, consumer fraud, domestic relations, landlord/tenant problems or other areas, are clients having major input into that decision/priority setting process, the result of which directly effects their lives and that of their families?

I must ask and you should answer these questions. If they are answered in the affirmative, then everything is fine. If not, why not? How can we as a Board of Directors best direct the expenditure of our funds through the grants, contracts, rules, and regulations process to best serve your direct and immediate needs for legal services? These are the questions I have and will continue to ask of both the client ocmmunity and grantees. I believe that client needs should be, in large measure, determined by clients as they are perceived by clients. They should not, as is too often the case in my experience, be determined by a non-client who says or perceives "what is best for the poor". The "let us tell those poor people what is best for them" attitude of the 1960's should not be the guiding light for priority setting in 1982.

It has been my experience in working in a variety of so-called "poverty programs", that people classified as poor have the same ability to tell a lawyer what his or her problem is as does the corporate executive. I have found that both the "poor" person, and the corporate executive will say, "this is what is going on; I do not like it; I want to change it; tell me how it can be done". The lawyer's responsibility is to advise, inform and institute the necessary action in the appropriate forum to respond to the needs of the client. The main difference between these two clients is that the corporate executive evaluates service and performance and makes the lawyer accountable through the leverage of fees and retainers. Elegible clients in our program do not have that direct kind of leverage. However, the statute and the regulations of this program say that your leverage is informing the program, local board, and the national Board, if necessary, when you think your needs are not being met.

I want to be sure that those who receive the millions of dollars through grants, contracts and other funding mechanisms are providing the most economical and effective delivery of legal service possible in both rural and urban areas. That requires review, oversight, evaluation and recommendations by the Board and its Committees as to the impact and effectiveness of existing rules and regulations on insuring that objectives are being met and that our rules are being enforced. You, I hope, want the same. You should demand review and evaluation at the local and national level. It is your right. It is your duty.

As I stated earlier, I have become rather suspicious of those who tell me not to "tinker" with the regulations and of those who tell me "you should not get into that area". When individual clients and some project directors in different parts of the nation give me a "green light" to go forward with evaluation and review, while some who recieve corporate funding give me a "yellow" and some times a "red" light on that issue, I wonder why. Well, you can be certain that I do listen to the client viewpoint and will continue to do so. But remember, I need your help and your support in this review if we, Board Member and the client,are to work together to make sure that clients are listened to as to accountability, composition of Boards and the establishing of priorities at the local level.

In addition to my interest in the above areas, I am deeply concerned and troubled by a major issue in the legal services program--lobbying and restricted activities by recipients of the Corporation's and hence, the taxpayers' funds. I want you to know the facts on this issue.

The American System of jurisprudence is founded upon the adversarial concept. Plaintiffs and defendants do not usually agree on the merits of each other's claim. Hence, the very nature of our system creates controversy.

Clients want and need a viable legal services program--a program which is capable of addressing any or all issues not precluded by statute or regulation in any and every appropriate forum for the -- redress of their greivances and the vindication of their constitutional rights. However, it is most important that those who serve the clients in asserting those rights do so within the ambit of the laws of the United States in compliance with the intent of the Congress. There are some in the legal services program who have stretched the law, and sometimes, in my view, violated the statutory prohibitions against lobbying and restricted activities--all in the name of clients.

Section 1608 of our rules was designed to insure that the Corporation's resources "will be used to provide high quality legal assistance and not to support or promote political activities or interests." The reality of accepting public funds is that "he who pays the piper calls the tune". If Congress provides the funds, then Congress will tell you how those funds can and cannot be spent. That is Congress' right, and duty and obligation to the electorate. It is the Corporation's duty, to you and to the public, to implement and enforce the laws.

In May of 1981, the Office of the Comptroller General of the United States informed the Corporation and the Chairman of the House Committee on the Judiciary, in an Opinion, that certain activities of the Corporation and its recipients constituted "grass roots" lobbying in violation of the Legal Services Act and restrictions on the use of Federal funds contained in other appropriations measures. The Opinion discussed the proviso to the 1979 fiscal year appropriation bill which stated, in part,:

> "...No part of this appropriation shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress or any State legislature..."

The Opinion went on to state:

> "This amendment has been applicable to the Corporation's appropriation each year since 1978. Under this restriction, appropriated funds may not be used by recipients to appeal to members of the public to urge elected representatives to support or defeat legislation pending in Congress or in any State legislature."
>
> "Through the use of recipient organizations and their contacts at the State and local level, LSC has developed an extensive lobbying campaign to support reauthorization legislation for the Corporation and related appropriation measures being considered by the Congress. This activity violates the anti-lobbying statutes...described above."

Keep in mind, if you will, that these words and this Opinion was not written by any partisan political interest; it was not written by the Office of Management and Budget; it was not written by President Reagan; it was not written by any Senator on the Labor and Human Resources Committee; and, it was not written by any of the President's recess appointees or nominees. It was written by the Office of the Comptroller General of the United States, perhaps one of the most respected entitites of the United States government, the Opinions of which are not taken lightly by the Congress or any Federal agency.

Therefore, we must look at the facts involved and ask real questions in this area. Efforts undertaken to "help the client" which have been called unlawful by the Comptroller General of the United States do not help clients. They may temporarily allow the advocates of such action to "let off steam" and attack a particular proposal they do not philosophically agree with, however, the bottom line is the impact on the program and its clients? So that I will not be misinterpreted, my concerns in this area do not mean that this Board or the Corporation should shy away from controversy or be fearful of offending any group or any interests. I am saying that the rights of clients can be vindicated and redressed within the law as is the case in the vast majority of situations.

When any recipient, or employee of a recipient of corporation funds violates the law by doing a prohibited act under the statute, the real victim, in the long term, is neither the recipient nor the employee. Rather, it is the mother who has been denied due process in the food stamp, medicaid of housing bureaucracy; the migrant worker who is perhaps being denied full rights under applicable laws; the mother seeking child support or custody; or the family whose utilities have been cut off because the landlord did not pay the bill when the tenant had paid the rent. People in our program who violate our rules and the statute in this regard will find other jobs or go somewhere else. However, you, the client, will still awake the morning after the rhetoric is over to those legal problems and needs which should have been addressed correctly within the bounds of the statute in the first place. Therefore, I again urge you to be the "guardians" of the trust and to make sure, since this program is for you, that its funds are utilized in your best interests and in a lawful manner by those who have been entrusted to provide you with quality legal services.

In conclusion, I want all of you to know that I, as well as my fellow Board Members, want your in-put, your guidance, your advice, and your counsel as we proceed to do our job to insure that you receive quality legal services. As I stated at the beginning of these remarks, you are the reason for our existence. As a member of the Board, I want and need your support. You can be confident that you have mine.

Peace and Power to you all.

Report and Recommendations of the
Special Committee on
Grant and Contract Procedures

To

The Board of Directors

Legal Services Corporation

December 16, 1982

Submitted By

Clarence V. McKee, Esq.
Chairman

I - STATEMENT OF PRINCIPLES AND PREFACE

The Special Committee on Grant and Contract Procedures, after several months of deliberation, receipt of testimony, and review of corporation files and documents, is pleased to submit its recommendations to the Board of Directors regarding the provision of legal services to eligible clients pursuant to the Legal Services Corporation Act, Regulations and Congressional directives related thereto for its recipients of funds by grant and contract for Fiscal Year 1983.

The Legal Services Corporation Act of 1974 as amended in 1977, and the changes thereto embodied in the Continuing Resolution of October 17, 1982, govern the use of Congressionally-appropriated funds for the delivery of legal services to eligible clients. Congress has stated as the first purpose of the Act the need "to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances". 42 U.S.C. §2996(1). It further provides that there is a need for "high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel. 42 U.S.C. §2996(2). Legal Assistance is defined as "the provision of any legal services consistent with the purposes and provisions of this title" with a directive to the Corporation to, inter alia, "insure that grants and contracts are made so as to provide the most economical and effective delivery of legal assistance..." 42 U.S.C. §2996(a) and U.S.C. §2996(f) respectively.

Accordingly, the Powers, Duties, and Limitations section of the Act supports the view that appropriations thereunder be channeled only into those sources necessary to facilitate the direct delivery of legal assistance:

> (1)(A)[the Corporation is authorized--] to provide financial assistance to qualified programs furnishing legal assistance to eligible clients, and to make grants to and contracts with [certain authorized entities] for the purpose of providing legal assistance to eligible clients under this title, and (B) to make such other grants and contracts as are necessary [emphasis added] to carry the purposes and provisions of this title;...
>
> (3) to undertake directly, or by grant or contract, the following activities relating to the delivery of legal assistance --
>
> > (A) research, except that broad general legal or policy research unrelated to representation of eligible clients may not be undertaken by grant or contract,
> >
> > (B) training and technical assistance, and
> >
> > (C) to serve as a clearinghouse for information. [42 U.S.C. §2996(e).]

The Committee believes that many of the frustrations, problems and controversy which have surrounded the Corporation's implementation of the Act have been created by an unwillingness of some persons within and without the legal services community to distinguish between the purposes and intent of the Act and the purposes and intent of the 1964 Economic Opportunity Act. The statutory purpose of the Economic Opportunity Act and Community Action Programs under whose direction Legal Services was established was to enable low-income families and individuals to attain the skills, motivations and opportunities for them to be "fully self-sufficient".* The Legal Services Act, however, has as its goals the objective set forth above.

Consequently, many in the legal services community perceived themselves as "strategists" in the war on poverty seeking to use legal services to address major "social significance" areas with the result being that "law reform", "ideology" and political viewpoint, "eclipsed individual service".** The Committee believes that many persons within the legal services community have mistakenly continued to view their and the Corporation's mission in this regard. The term "national policy representation" with regard to National Support Centers is an example of the continuation of this view. The fact that several National Support Centers were originally grantees of the old Office of Economic Opportunity and merely switched from OEO to LSC for continued financial existence lends credence to this allegation.***

As a consequence of the above philosophy, there has been little if any change in the basic structure of the Legal Services Program since the inception of the Corporation. Basic mechanisms, vehicles and structures for provision of legal services under the Act have not substantially changed. In addition, leadership and philosophy in these structures have not undergone basic reevaluations or constructive

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*Economic Opportunity Act of 1964, 42 U.S.C. §278(a)(1977)

**See, generally, Breger "Legal Aid for the Poor: A Conceptual Analysis", 60 North Carolina Law Review, No. 2 January (1982).

change in line with Congressional intent. The existing structure has been deemed a "sacred cow" by many and suggestions for constructive change to conform with Congressional intent has been resisted by many segments of the legal services community and their allies who, in many instances, have been confused by those who imply that reform or change is to be equated with being "against the poor" or for "abolition of the program."

The Committee believes that the true victims of the unwillingness by many to seek alternative mechanisms, structures and vehicles for the provision of legal assistance to eligible clients are the clients themselves. Accordingly, the Committee recommends that, regardless of attacks on the integrity, character and philosophy of Board members because of differing viewpoints on implementing reform and constructive change, that this and subsequent Boards move to initiate and make necessary changes in policy to assure efficient and effective delivery of legal services to clients within the scope and intent of Congress.

The scope envisioned by Congress for the Corporation's funding of legal assistance is defined as (a) direct delivery of legal assistance, (b) research, (c) training and technical assistance, and (d) information clearinghouse functions. The grant-making authority of the Corporation was further limited when Congress required that the Corporation shall "insure that grants and contracts are made so as to provide the most economical and effective delivery of legal assistance to persons in both urban and rural areas." (emphasis added.) 42 U.S.C. §2996f[3]. The Congress specifically mandated that the Corporation shall "insure that (i) recipients, consistent with goals established by the Corporation, adopt procedures for determining and implementing priorities for the provision of such assistance...; and (ii) appropriate training and support services are provided in order to provide such assistance to such significant segments of the population of eligible clients." 42 U.S.C. §2996f(2)(C).

The Board of Directors of the Legal Services Corporation, in making its funding decisions for Fiscal Year 1983, and thereafter, must specifically adhere to the mandates of the Act, and justify each grant or contract according to the precepts incorporated within the Act. Furthermore, the funding decisions must implement the clear intent of Congress to restrict lobbying and limit class actions. Where savings can be made with the curtailment of unnecessary programs, these funds would be applied to meet more pressing needs in the local delivery of legal services, especially where budget cutbacks of recent years have forced the closing of local offices.

II - RECOMMENDATIONS

In accordance with the above statement of principles and views, the Committee makes the following recommendations to the Board.

II-1 Recommendation Number One - Funding Policy

The Committee recommends that the Board adopt the following Statement of Policy on Funding Priorities:

> **RESOLVED,** that in order to insure that the delivery of legal services to eligible clients is handled in the most economical, efficient and effective manner; and to further insure greater flexibility and accountability in the expenditure and utilization of Corporation funds, it shall be the policy of the Corporation whenever and wherever possible, to provide financial assistance directly to local legal services programs and to undertake directly itself activities related to training, education, technical assistance, clearinghouse functions and support activities related to the provision of legal services to local program attorneys and eligible clients. Where necessary and feasible, the Corporation may make such other grants and contracts as will assist in the implementation of the objective of the Act. In making such grants and contracts, the Corporation shall endeavor to explore and review alternative mechanisms and structures and shall, to the extent possible, seek competitive bids and proposals from a variety of institutions, organizations, and entities.

II-2 Recommendation Number Two - Local Program Funding for Fiscal Year 1983

A. Funding Level and Duration

In order to assure stability and certainty in local legal services programs as to 1983 funds, and to further indicate the Board's intent that staff attorneys and the clients they serve may operate on a daily basis without uncertainty and doubt as to funding, the Committee recommends to the Board that grants to local field programs which provide direct delivery of legal services to eligible clients be renewed at FY 1982 funding levels through December 31, 1983.

B. Grant Conditions

In addition to any restrictions or directives to be imposed on grant recipients' activities and utilization of funds pursuant to Congressional directives and Corporation regulations adopted pursuant thereto, all such grants to recipient programs shall contain the following conditions to receipt of funds:

1. A plan for the establishing of priorities with the Act must be submitted to the Corporation no later than thirty (30) days after the acceptance of funding. The plan must include (a) the mechanism for client participation in priority setting including all applicable surveys, questionnaires, and supporting documentation, (b) the date of the most recent setting of priorities, and (c) the date at which time future evaluations of client priorities will be furnished.

2. A plan detailing the procedures to be utilized by the grantee to ensure that its governing board is in compliance with the provisions of the Continuing Resolution and Corporation regulations must be submitted to the Corporation no later than thirty (30) days after the acceptance of funding.

3. No funds shall be expended to any organizations for dues, membership fees, registration fees, or any other purposes except as specifically authorized in advance by the Corporation; during Fiscal Year 1983, the following exceptions are authorized:

    (a) Fees for bar associations and health insurance organizations; and,

    (b) Dues to any organization which has provided the benefit of reduced cost malpractice insurance to its members for which benefit the recipient program attorneys have relied upon the organization to provide, with the condition that the dues and premiums paid to the said organizations (1) do not exceed the current market cost for the benefit alone, and (2) such dues and premium payments are restricted to annual premium and dues payments for and during 1983. Within 30 days of the adoption of this recommendation, the President and Comptroller of the Corporation are directed to explore alternative mechanisms and enter into discussions with mal-practice insurance carriers regarding the Corporation's underwriting reduced cost mal-practice insurance coverage for program attorneys and shall provide recommendations to the Board at the earliest possible opportunity.

4. Each grantee must provide training assistance and support to the eligible clients serving on said grantee's governing board so as to insure maximum participation of the affected eligible clients in the decisions of such local board and in the delivery of legal assistance. Separate funds for such purpose are being recommended by the Committee for local programs (see infra).

5. No funds shall be transferred to national or state support centers, or any other entities without express approval of the President of the Corporation.

6. Each grantee shall, within 30 days of receipt of the funds received hereunder, set forth plans and proposals on how a portion of its private bar involvement allocations shall be utilized for the participation and involvement of minority attorneys and/or minority bar associations, particularly in the areas of setting priorities, referrals, and the training of program attorneys and clients.

7. Prior to the issuance of any grants hereunder, the Director of the Office of Equal Employment Opportunity shall have determined that each grantee has complied with Corporation policy and procedures related to equal employment opportunity and affirmative action, especially as it relates to the Project Director, Managing Attorney, and Staff Attorney categories as to minorities.

The Committee's rationale for the above conditions is as follows:

A - Funding Level and Duration - the rationale as to stability and certainty in local programs was set forth in II-A above.

B - Grant Conditions

#1, 2, 4. The Committee's basic concern is involvement and participation of clients in local priority-setting, governing Board compliance and in training activities. Clients are the raison d'etre of the

Legal Services Program and the Committee believes that clients must be assured involvement and participation.

#3. The Committee strongly believes that Corporation funds must, unless absolutely necessary for the provision of legal assistance to eligible clients, be utilized for that purpose and not directed or delegated to outside groups or organizations in the form of dues, fees and related expenditures. This condition is to assure greater accountability on the utilization and expenditure of Corporation/public funds. The Committee believes that unless it can be show to be related to the provision of legal assistance to eligible clients pursuant to the Act, that no funds should be utilized which support, directly or indirectly, organizations or groups which might not be considered appropriate for initial funding by the Corporation especially if they do not directly provide legal assistance to eligible clients. Any diversion of funds from local delivery units providing legal assistance to eligible clients must be shown to be necessary.

As to mal-practice insurance, the Committee believes that, if feasible and cost-effective, that the Corporation should itself underwrite the premiums to reduced-cost mal-practice insurance for program attorneys through a mechanism to be determined by the President and Board after investigation of viable alternatives, methods and options as set forth above.

#5. The same rationale as #3 above exists as basis for condition #5 with the additional concern that funds should not be transferred to National or State centers at least until a final decision has been made by the Board as to their continued viability as a vehicle for the provision of support services to local programs.

#6. The Committee views the involvement and participation of attorneys who are members of racial and ethnic minority groups, and associations thereof, as an important need in all aspects of private bar involvement at the local level. Accordingly, the Committee is requesting that local programs identify how they will utilize a portion of private bar involvement allocations for this purpose.

#7. The history of the role, function and efforts of minority attorneys in efforts to provide equal justice under law and equal access to the system of justice is well known. Accordingly, the Committee believes that local programs should make every positive good faith effort effort to hire and train minority attorneys at all levels and local governing boards should make every positive good faith effort to seek out minority project directors.

II-3 Recommendation Number Three - Clearinghouse Function

The Committee believes that funding for the Clearinghouse be provided in such amounts as will reasonably accomplish the following:

A. Provide a central substantive data bank for the Corporation, its grantees, private attorneys serving eligible clients, bar associations, and eligible clients. Such a data bank would include briefs, treatises, documents and other information not readily available, particularly from a centralized resource.

B. Provide a mechanism for the dissemination of information regarding recent decisions on procedural or substantive questions directly affecting eligible clients.

Pursuant to the above recommendation, the President shall advise the Board on options and alternatives for implementing the above (A) and (B).

II-4 Recommendation Number Four - National and State Support Centers *

A. Funding

For the reasons set forth below, the Committee recommends that funding for National and State Support Centers be for a period January 1, 1983 through March 31, 1983 at FY 82 levels

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*Member Annie Slaughter disser [illegible] rom this recommendation and her separate views are atta [illegible] eto.

with new three-month contracts in the form of Attachment A hereto.

B. Contract Conditions

In addition to any restrictions or directives to be imposed on contractor's activities and expenditure of funds, pursuant to Congressional directives and Corporation regulations, adopted pursuant thereto, and pursuant to the Funding Policy recommended in I supra, the following conditions shall apply to receipt of funds hereunder:

1. Within 30 days of the receipt of funds, each recipient shall set forth its plans, proposal and timetable for phasing out and closing of separate Washington, D.C. offices or State Capitol offices by March 31, 1983 or show cause why their service function to local programs or to their area of specialized law could continue in view of restrictions and prohibitions as to legislative activities. (See staff option, C-1(b), C-2(b), page 21, Staff Briefing Book, Audit and Appropriations, 16/21/82).

2. During the 60 day period (January 1, 1983 through March 1, 1983, each National Support Center, or groups thereof, shall submit any plans, proposals or options to the President of the Corporation regarding the following areas:

   a. Elimination of any overlap among Centers as to substantive law and client population groups served;

   b. Methods and options for the most efficient, effective and economical allocation of service resources among vehicles for the provisions of support and efficient delivery of legal services to eligible clients and program attorneys;

   c. Proposals for merger or consolidation of existing centers and/or for the concentration of resources in substantive areas where support needs are greatest,* e.g., Housing, Family Law, etc. (See staff Briefing Book, supra, C-1(d), page 22).

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* For example, the Corporation's statistics for "Closed Cases -- Breakdown of Problems" data released in February show that the greatest problem areas has been Family - 29.6%, Income Maintenance - 18%, Housing 17.8% and Consumer Finance - 13.7%. (See Table A).

TABLE A

CLOSED CASES
BREAKDOWN OF PROBLEMS
- by percentage

TOTAL FAMILY	29.6
Family Adoption	0.7
Custody/Visitation	4.5
Divorce Separation/Annulment	15.8
Guardianship Conservatorship	1.0
Name Change	0.6
Parental Rights Termination	0.2
Paternity	0.5
Spouse Abuse	1.6
Support	2.5
Other Family	2.0
TOTAL INCOME MAINTENANCE	18.0
AFDC/Other Welfare	4.7
Black Lung	0.1
Food Stamps/Commodities	1.3
Social Security	3.2
SSI	3.6
Unemployment Compensation	3.0
Veterans Benefits	0.4
Workers Compensation	0.3
Other Income Maintenance	1.4
TOTAL HOUSING	17.8
Federal Housing	1.1
Homeownership/Real Property	2.5
Landlord/Tenant	11.4
Other Public Housing	0.9
Other Housing	1.8
TOTAL CONSUMER FINANCE	13.7
Bankruptcy/Debtor Relief	2.4
Collection	4.6
Contracts/Warranties	1.8
Credit Access	0.1
Energy	0.2
Loans/Installments Purchases	0.2
Public Utilities	1.6
Unfair Sales Practice	0.3
Other Consumer/Finance	2.4

d. Recommendations and options regarding alternative mechansims and vehicles for the provision of support and alternatives and varying methods of funding such efforts, e.g., within the Corporation structure through a designated separate office, Field Services, Regional Offices, etc.

e. Recommendations for eliminating overlap between state and national support functions.

f. Recommendations as to how all libraries shall be made available to the Corporation for entry into either (1) the Wang/Kris computer retrieval system or (2) the Clearinghouse data bank.

g. Consistent with the Continuing Resolution, class actions will be limited according to the policies established by the Board.

h. Consistent with the Act, no amicus brief shall be filed without prior approval of the Corporation President or the Board. Indiscriminate filing of amicus briefs diverts scarce resources from the direct delivery of legal assistance to eligible clients. The standard governing the granting of approval shall be the "necessary to carry out the purposes and provisions of this title". [42 U.S.C. §2996(e)] standard.

i. Consistent with the Continuing Resolution, no lobbying shall be permitted.

j. Back-up services to programs and to private attorneys providing legal services to eligible clients shall be expanded. Each support unit shall provide to the Corporation no later than sixty (60) days after acceptance of funding, proposals for the creation of a lawyer bank to augment the data bank presently available in the substantive area served by the support unit.

k. Training functions currently ongoing in the support unit shall be decreased. After the three-month grant period, necessary training will be centralized within the corporation.

l. Telephone consultation conducted during the grant period shall be documented for evaluation by the Corporation. The documentation shall include (1) person/program making request, (2) person answering the request, (3) specific request, (4) time expended, (5) additional resources/references furnished.

m. Direct delivery of legal services to eligible clients shall be continued as to those clients whose representation was begun prior to this grant period, with the following conditions: (1) such representation shall be continued in a manner consistent with all provisions of the Act or the Continuing Resolution and (2) any client who cannot be adequately represented within the constraints of the Act or the Continuing Resolution shall be referred to the private bar in a manner consistent with professional responsibility.

The President of the Corporation shall meet with representatives of Support Centers, consult with local program directors and client groups, regional directors and others in reviewing these proposals and shall make recommendations to the Board regarding mechanisms, structures and funding of National Support vehicles prior to March 31, 1983. In making recommendations, the President shall take into consideration sources and amounts of non-Corporation funding received by Support Centers and the special requirements and needs of program components and programs which provide legal services to and support for Native Americans and Migrants.

During the above period, the President, after consultation with local program directors, local client groups, regional directors and other sources shall make recommendations to the Board regarding the structure, mechanism and vehicle for the provision of national support to local programs. Decisions regarding the vehicle and methods of funding for national and state support shall be made on the basis of the most effective, efficient and economical delivery standard consistent with the policies of the Board and requirements of the Act.

The Committee's rationale for these recommendations is as follows:

A. National Support

There is no question by the Committee as to the efficacy or need for a support mechanism and component to assist local programs in the provision oflegal assistance. Clients, program directors and others who have appeared before the Committee nearly unanimously affirm that need. The issue which the Committee considers crucial is: What is the most efficient, economical and effective vehicle and structure for its provision of such support?

The concept of support services and vehicles for the delivery thereof has been a ripe topic of discussion since the inception of the Corporation. As stated above, the Committee shares the view espoused by most witnesses at its meetings and by studies on specialized services during the past several years that high quality specialized support services are essential to the provision of legal assistance to clients.*

The Committee believes, however, that the support centers as a vehicle for delivery of specialized services should be reevaluated taking into consideration different priorities, actual program problem case areas, and the need for greater Corporation accountability and control over its provision of specialized support. As the Committee on the Judiciary noted in 1976 after conducting hearings on support services and centers:

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* See Memorandum to Louis F. Oberdorfer, "Legal Services Corporation: Specialized Legal Services", September 7, 1975, reprinted at Hearing on H.R. 7005, House Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Committee on the Judiciary, 94 Cong., 1st Sess. (Oct. 29 and 31, 1975); see also, letter from Alexander Polikoff to Thomas Ehrlich re: support centers study, February 16, 1976.

> ...the hearings indicated widespread support for the concept of specialized services and *providing the Corporation the option of choosing the best method of funding them*... the mandate to provide quality legal services to the poor requires that Congress insure that the new legal services *have the resources and discretion necessary to deliver these services in the most effective, efficient, and economical way* (emphasis added).*

Hence the Congress has stated that the Board does have discretion and options in providing specialized support service. The Committee is recommending that the Board evaluate the present structure and perhaps define a different mechanism for delivery of support other than the existing structure of 17 support centers located in 8 cities providing a variety of specialized services in substantive law areas and to certain population/client groups.**

The Committee questions the continuation of the present support structure given its concern for greater centralization of such services and the Corporation's own figures and characteristics of field programs. For example, the February, 1982 Factbook published by the Corporation indicates that client characteristics by age showed only 2.1%, and 12.9% of the clients were under 18 and over 60 years of age respectively. Hence, the query is the need for centers for these groups alone as opposed to a consolidation with other centers, for example. As Exhibit A. *supra*, indicates, the closed cases indicates five major problem areas: *Family*, including spouse abuse, divorce, custody, adoption, support, etc. -- 29.5%; *Income Maintenance*, including AFDC/ welfare, social security, SSI, unemployment compensation, workers compensation, veteran and food stamps - 18%; *Housing*, including federal and public housing, landlord/tenant, etc. - 17.8%; *Consumer*, including collections, credit access, contracts/ warranties, etc. - 13.7%. Total employment such as job discrimination and wage claims amounted to 2.9%; total health, including medicare and medicaid 2.0%; total juveniles including delinquency, neglected/abused/dependent children was 1.1%; Education - .5% and miscellaneous including wills/estates, Indian/tribal law, incorporation, etc. - 11.6%.

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* H. Rept. No. 94-810, Com. on the Judiciary, Report on H.R. 10799, 94th Cong. 2d. Sess. (Feb. 5, 1975). P. 4

** Centers are located in Boston, New York City, Boulder, Cambridge, Los Angeles, St. Louis, San Francisco, Berkeley and Washington, D.C. Substantive law areas served are Housing, Education, Consumer, Mental Health, Immigrants, Health, Employment, Welfare, Economic Development, and Social Services back-up. Population and client groups are served by separate centers on Youth, Elderly, Indians, Migrants, Veterans and, Women.

The Corporation itself was the main impetus in encouraging support centers to pursue national policy advocacy and representation in 1978 as a legitimate and critically important function as being seemingly more important than provision of basic support:

> There is a strong sense among Corporation staff and within the legal services community of the importance and urgency of national policy representation work, *including backup and support to local programs*.* (emphasis added).

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* Legal Services Corporation, *Support:* [illegible]icies and *Options* for 1979 and Beyond, 27 (Sept. 14, 1978)

There were instances where Corporation staff in evaluating some centers, criticized centers for too much local support. For example, in the December, 1981 "Evaulation Report of the National Social Science and Law Center", the evaluation stated the following:

> "the 1979 evaluation found that much of the work of NSSLC was local because it was based on local demand. Thus the evaluators found little work on a national focus and limited effect on national policy representation. That evaulation report included a list of national projects that might be developed from requests received by the program. It recommended that virtually all NSSLC resources be devoted to national issues and probelms....
>
> NSSLC had a national impact in virtually all the areas suggested; whether or not the activity was generated by the evaluations (on which we take no position), the desired national focus has occurred.
>
> We recommend that NSSLC allocate no more than a moderate percentage of resources to field responses and continue to develop new priorities that address the needs of poor persons in times of great change....
>
> ...if resources are needed for the support activities outlined below, we believe items should be directed from those resources allocated to responding to field requests. (emphasis added).

The National Senior Citizens Law Center was informed in its November 1981 Evaluation Report prepared by former Corporation employee Alan Houseman that it should "move quickly to establish whatever new networks are necessary to make sure that they are functioning effectively by early 1982"... and spend whatever

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* Evaluation at 8, 11.

staff time and resources are necessary to shore up or put in place all of the existing networks."*

Any reorganization, merger or concentration of resources into basic law areas must be done with the objective of having support activities provide back-up services to local field programs and eligible clients as major objectives in order to implement the kind of activity as recommended in the above evaluation reports.

B. State Support

As in national support, the Committee believes the area of state support should be evaluated in the context of existing needs, congressional directives and meeting the objective of providing back-up support on the local, state level. To the extent state support is provided, the Committee believes its main functions should be clearinghouse/showing of information, client information dissemination and coordination of litigation.

II-5 Recommendation Number Five: Client Involvement and Participation -- National Clients Council **

The Committee recommends the following new funding for client involvement and participation at the local level:

1. Every local delivery unit grant will carry grant conditions as set forth in Recommendation Number One regarding program priority setting and local board compliance with client membership;

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* At page 29

** Members Anne Slaughter and William Olson dissent from certain portions of this recommendation. Their statements are attached.

2. Separate local dedicated funding to local programs should be provided by grant to provide financial support to local clients in efforts to effectively participate in the governing of the program. Clients on local boards shall have substantial discretion in determining the best means of utilizing the funds available to them consistent with the purposes and provisions of the Act and the Continuing Resolution.
3. The Office of Inspector General shall have monitoring of local board compliance with regulations on client involvement and participation as a responsibility and shall be receptive to and investigate client complaints, including complaints concerning compliance with the training and technical support grant conditions referred to above.

The Committee further recommends funding for the National Clients Council for the period January 1, 1983 to March 31, 1983 only at Fiscal Year 1982 levels in line with the Committee's view that emphasis on client involvement and participation should be at the local level and also conform to the recommended funding policy outlined above. During the three-month period, the President shall meet with the leadership of the Clients Council regarding the best manner and options to effectuate the above recommendations.

The Committee further believes that the recommendations as to local involvement will require some national coordinating mechanism as to client participation and concerns at a much reduced level of funding and structure. The President shall present his recommendations and options therefore to the Board prior to March 31, 1983.

A. Rationale

The most fundamental concept embodied within the Legal Services Corporation Act is the mandate set out as the first statutory purpose: "there is a need to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances." [emphasis added.] 46 U.S.C. §2996(1). Legal assistance is specifically defined as "the provision of any legal services consistent with the purposes and provisions of this title." [emphasis added.] 42 U.S.C. §2996a(5). However, the manner in which funding is provided to the Corporation and thereafter granted to delivery units has in many ways severed the crucial connection between the individual and the legal assistance.

Because purchasing power is not in the hands of clients, especially in staff attorney programs which have been the dominant delivery mechanism, careful attention must be paid to tailoring theprogram to meet the true needs of those eligible to receive legal assistance. To ensure that there is a sensitivity to the needs of clients, an effective mechanism must be put in place to substitute for the absence of a market mechanism to provide client feedback for the Corporation and local delivery units.

In the past, the Corporation has transferred more than $3.6 million into the National Clients Council. The National Clients Council has not effectively brought and articulated to the Board the problems of insuring accountability to clients at the local level or provided recommendations or proposals as to meeting the needs of individual clients in programs. Since 1978, nearly $3 million in grants have been given to NCC. Over $1 million went to NCC staff salaries; office overhead has totaled another $500,000. From 1977 to 1980, about 25 percent of NCC annualized funding level (minimum of $600,000) went to travel.

These basic figures reveal that less than one-third of funds made available went to clients directly. While some of the travel may have been useful for trianing, and staff may have done training, the results are not satisfying. Not only do clients not see the money, there is no real incentive for the delivery unit to set up lines of communications with clients. The NCC's record does not show a history of articulating client needs to the national Board for implementation and enforcement at the local level. To solve the problem, support for the National Clients Council should be reevaluated as set forth above.

As to the above recommendation, this Committee would reemphasize that Regional Offices have, as part of their oversight responsibility, the duty to assure that client needs are heeded by local programs.

The Committee would recommend to the Board that individual programs be allowed to submit supplemental grant applications for client involvement during the second, third and fourth quarters of 1983.

This allocation of funds to local governing board client members precludes continued funding to the National Clients Council as it now exists. Any "national clients organization should be established from local client groups. Furthermore, the Committee strongly believes that organizations such as the American Bar Association, National Bar Association, National Legal Aid and Defender Association and similar groups should assume the responsibility and obligation for any funding of a

"National" client organization. Public funds should be, to the extent possible, provided directly to local programs for local client concerns. This Corporation is only authorized under 42 U.S.C. §2996(e) to make such grants which do not provide for the furnishing of legal assistance to eligible clients "as are necessary [emphasis added] to carry out the purposes and provisions" of the Act. The local functions which it could have served will be more fully effectuated by the localized client support grant approach.

II- 6 Recommendation Number Six - Reginald Heber Smith Fellowship Program*

The Committee recommends that the Reginald Heber Smith Fellowship Program ("Reggie") be funded through the end of its current contract/grant period. During the remainder of the period, the President shall meet with the staff of the Reggie program to discuss activities, direction and focus of Reggies in the legal services programs.

A. Rationale

Individuals in need of access to the courts have been the raison d'etre, the reason for existence, of the Legal Services Corporation. The position of this Committee is that the individual poor person must remain our top priority. Therefore, in periods of scarce resources for those individuals, every expenditure must be made thoughtfully and deliberately. When the previous Board adopted the 1982 budget, it is possible that the thought and deliberation were limited somewhat by the exigencies of the moment. Chairman McCalpin stated that "it is unfortunate that Members of the Board did not have more than a few hours' opportunity, and, in some cases, less than an hour to look at this [1983 Consolidated Operating Budget]." Board Transcript, December 4, 1982, page 33.

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* Member Olson dissents from this Recommendation and his separate statement is attached to this Report.

Within days after this adoption of the 1982 budget and twenty days before this Board was appointed, an addendum to the contract with the Reginald Heber Smith Fellowship Program was signed, extending the program for two years beyond the then June 30, 1982, expiration date. Because the Corporation's relationship with Howard is contractual, the Board may, in its sole judgment, cancel the contract if (1) appropriated amounts are less than necessary to carry on essential projects (defined generally as delivery, administration, training and research), or (2) Congress restricts the purposes for which funds can be allocated.

During the contract period, the Committee recommends that the President and the staff of the Reginald Heber Smith Fellowship Program enter into discussions to evaluate the program to determine how to best serve the needs of individual clients.

In order to effect the design, the Committee recommends that attention be given to past problems of the program, essential changes, and past positive aspects.

Problems. The structure of the Reggie program has encouraged representation of groups rather than representation of individuals. The newsletter had the tone of excessive politicization encouraging fragmentation rather than full utilization of American legal institutions. The fact that most Reggies are not admitted to the Bar when they begin their service (although they must take the Bar Examination within the first year) diverts these funds from client representation in court. The Reggie work-status has sometimes caused friction within the programs to which Reggies have been assigned. The training component of the Reggie program need to be re-assessed in the overall review of LSC training. Though the Reggie program has been an effective minority recruitment mechanism, identifying quality individuals interested in legal services, its argued need has put into question the effectiveness of the independent affirmative actions of the delivery units to hire minority attorneys.

Essential Changes. (1) The 25 percent community involvement requirement in Reggie contracts must be reevaluated. (2) The independent nature of the program must be reinforced by discontinuing the politicization of issues through mechanisms such as newsletters.

Positive Aspects. The staff should be aware of the need to recruit committed and highly qualified minority and non-minority lawyers into the program. Further, nationwide exposure of the Legal Services Corporation to law schools has been provided through the Reggie Program. Law schools may be able to probide unique services to the Corporation. Additionally, in discussions during the contract period, the President should consider the Corporation's efforts to leverage greater private bar involvement through Reggies and their participation therein, the need for technical expertise in some areas of poverty law, the need for specific research, the need for training and support of individual clients for maximum participation on boards, and the need for increased awareness within law schools of the professional responsibilities of all lawyers. The Committee feels that the Reggie program can play a greater role in sensitizing the private bar, law schools and other institutions as to the goals and objectives of the legal services program, especially considering the historic role of Howard University School of Law in persuing equal access to justice for minorities.

II-7 Recommendation Number 7 - Training

The Committee recommends that in line with Recommendation Number One, and to the extent possible and feasible, that the Corporation undertake directly training responsibilities.

A. Rationale

Since its creation, the LSC has experimented with a wide variety of approaches to training -- from centralized efforts to non-coordinated and unsupervised (by LSC) components of National Clients Council, the National Support Centers, Project

Advisory Group, State Support Centers, Regional Offices, and programs themselves. The decentralized approach carries disadvantages which far outweigh any arguments for a continuation of the status quo. Advances in technology, economics of scale, support to individual private attorneys, and assurance of quality mandate that all training for attorneys, including Reggies, should be centralized in the Corporation. If there is a need to use other training vehicles on a contract basis, that would be possible. The need for additional modes of training increases as the Corproation moves toward private bar involvement, and the staff is directed to complete a study of needs and ways of meeting the needs directly by the Corporation. Training of clients and technical assistance shall be furnished by local grantee delivery units as requested by clients on governing boards.

II-8 Recommendation Number Eight - Minimum Access

The Committee recommends that the staff ascertain the relationship between "Minimum access" and the unmet need for legal services. As soon as 1980 Census data is available, the President should commission independent economic research for the purpose of answering, among others, the following questions:

1. Shoud the present standard for eligibility be tied to local cost-of-living figures?
2. Should special funding allowances be made for geographical areas which has high proportions of low-income persons, (*e.g.*, Mississippi) special groups such as Native Americans, elderly, etc?

3. What data is available regarding unmet needs for legal services and what data should be compiled in order to assess those needs?
4. How should "minimum access" be defined?
5. To what extent, if any, it would be feasible within the Act to make block grants to state-wide non-profit entities as central recipients for funds on a state-wide basis? Funds would the be allocated throughout the state to local programs. Under such a concept, any local program could apply to be designated as the state agency by the Corporation.

II-9 Recommendation Number Nine - Regional Offices

The Committee recommends that the President undertake an evaluation of the "Regional Office" structure and concept and its effectiveness and utility in the supervision and monitoring of local field programs and in executing Board policy. The following matters, among others, should be addressed:

1. The role, if any, of Regional Offices, as a local point for state and/or national support services;
2. The effectiveness of Regional Offices in monitoring program activities, *e.g.*, fund balances;
3. The extent to which the "Regional" structures can or should be reduced in terms of numbers of offices in view of the creation of the Office of Inspector General; and,
4. Such other areas of review and evaluation as may be deemed necessary.

II-10 Recommendation Number Ten - Contracts

The committee Recommends that the contract for Support Centers be revised in essentially the form and substance as Attachment B hereto.

III CONCLUSIONS

The Committee believes that the above recommendations in addition to the regulations to be adopted by the Board pursuant to Congressional directives will go a long way toward bringing the legal services program into compliance with the Legal Services Corporation Act and Congressional intent as to the program's emphasis and objectives -- providing high quality legal services to eligible clients in the most economical and efficient manner possible.

These recommendations take the Corporation in a new direction towards greater client involvement at the local level, greater accountability of local programs to the Corporation, and a greater degree of direct Corporation control over areas previously delegated through grants and contracts. It is the view of the Committee that the mission of providing high quality legal services to eligible clients will be enhanced by the adoption of the above recommendations.

Respectfully Submitted,

Special Committee on Grant and
Contract Procedures

By______________________________
Clarence V. McKee, Chairman

Date: December 17, 1982

(EDITOR'S NOTE: Due to printing limitations and in the interest of economy, additional material supplied for the record by Mr. McKee (including transcripts of hearings) was retained in the files of the committee where it may be researched upon request.)

Coalition for Legal Services, Inc.

1625 K Street, N.W., Room 908
Washington, D.C. 20006
(202) 822-9115

Executive Director
Robert J. Rhudy

April 13, 1984

Senator Orrin Hatch
Labor and Human Resources Committee
U.S. Senate, 424 Dirksen
Attn: Kevin McGuiness
Washington, D.C. 20510

Dear Senator Hatch:

I wish to respond to comments made by Clarence McKee regarding the Coalition for Legal Services, Inc. at your Committee's hearing on the Legal Services Corporation on Wednesday, April 11, 1984, and explicitly request that this letter be included in the record of that hearing.

Contrary to Mr. McKee's allegations, the Legal Services Corporation did not create the Coalition for Legal Services in 1981, nor has the Coalition for Legal Services ever received any funds from the Legal Services Corporation. I do not deem other statements of Mr. McKee regarding this organization as worthy of comment.

Thank you for your acceptance of this statement into the record.

Sincerely,

Robt J. Rhudy
Robert J. Rhudy
Executive Director

cc: Senator Thomas Eagleton

HAND DELIVERED BY MESSENGER, 4/13/84

NORTH
CENTRAL
TEXAS
LEGAL
SERVICES FOUNDATION, INC.

3108 Live Oak Street/Dallas, Texas 75204

(214) 824-6690

April 12, 1984

EXPRESS MAIL

Senator Orrin Hatch
Senate Labor and Human Services Committee
United States Senate
Washington, D. C. 20510

Re: April 11, 1984 hearing

Dear Senator Hatch:

I am writing to respond to allegations made by Jim Norell of the Legal Services Corporation before your Committee on April 11, 1984, relating to me. I understand that Mr. Norell testified that I had attempted to coerce a former client of the Foundation not to cooperate with LSC investigators, an allegation which is both untrue and irresponsible.

At the outset, I note that the same allegation is contained in the report regarding activities of the Legal Services Corporation and its recipients dated September 28, 1983, which was issued by your office. Because I was not present at the April 11 hearing, I do not know the details of Mr. Norell's testimony, although I have been told that they followed the allegations made in your report. I will review briefly the history underlying the allegations first.

On August 30, 1983, Kevin McGuiness called me to tell me that he was from the Senate Labor and Human Services Committee, that he was in Dallas investigating allegations of illegal activities by this program, and that he wanted to discuss those matters with me the next morning, August 31. I agreed to meet with him at 9:30 a.m.

On August 31, I met with Mr. McGuiness, who was accompained by Peter Broccoletti of LSC/OCR, and discussed with them particular allegations they raised about the program. Because I had been with the program only six weeks at that time, because the allegations were for the most part well over two years old, and because I had not been informed of the allegations prior to the meeting, I was unable to provide them with much particular information at that meeting. During the meeting, they informed me that the sources of the allegations were Mary Dews and Sera Phillips.

Later on the 31st, I received a call from a local attorney, Michael Daniel, who informed me that he had been called by Mary Dews, who was concerned about her discussions with Mr. McGuiness and Mr. Broccoletti. Mr. Daniel informed me that Mary Dews had been told by McGuiness and Broccoletti that LSC intended to terminate funding to this program, and to replace it with an experimental "judicare" program. He also indicated that Ms. Dews wanted to meet with me, and asked Mr. Daniel to set up the meeting. I agreed to meet with Mary Dews at 11:00 a.m. on Friday, September 2, 1983, on the condition that Mr. Daniel attend the meeting, specifically because I was concerned that Ms. Dews might later incorrectly report what I had said.

On September 2 the meeting took place as scheduled, with Ms. Dews, Mr. Daniel and myself meeting at Mr. Daniel's office. During the meeting, most of the discussion involved Ms. Dew's concerns about the future of the program, and my plans as the new director of the program. Little was said about the Legal Services Corporation investigation which was pending at that time.

I understand that Mr. Norell testified that I told Mary Dews that because she talked with your staff member, it would be her fault if legal services were eliminated. No such statement was made.

In your report this allegation is attributed to a memorandum from Thomas J. Opsut, Director of the LSC Office of Compliance and Review to Victor M. Fortuno, a copy of which was apparently provided to you and to Jim Norell. At no time prior to publication of your report was I provided with a copy of that memorandum, notified that an allegation of improper activity had been made against me, or asked to respond to the allegation. Although the allegation is that the statements were made in the presence of a third party selected by Ms. Dews, neither Mr. Opsut, Mr. Fortuno, or anyone from your staff has made any attempt to confirm the truth or falsity of the allegation by contacting the third party.

Following the publication of your report, I contacted LSC and asked them to provide me with a copy of the memorandum so that I could respond to it. I received no response from LSC regarding that request and filed a request under the Freedom of Information Act seeking a copy of the memorandum. In their initial response, LSC denied that such memorandum existed. They later explained that the reference was probably to a memorandum from Mr. Fortuno to Mr. Opsut, but they declined to provide me with a copy under the Freedom of Information Act claiming that it was confidential, notwithstanding their willingness to publish the charge to you, to permit its publication in your report and to testify about it in your Committee. To this date, neither I nor the third party who was present have been contacted by any official of LSC, any member of your staff, or any other investigating agency to determine whether the allegation was true.

In fact, I have been acutely aware of the need to avoid any implication that the program would attempt to dissuade witnesses from talking to investigators, either from LSC or from Congress. Shortly following the meetings discussed above at which I was informed that an investigation was in progress, I held a staff meeting and told the program staff about the investigation. At that September 9 meeting, I also told staff emphatically that they were not to contact the persons making the complaints for any reason, to insure that no implication of such conduct would arise.

On September 12, following the staff meeting, I circulated a memorandum to staff confirming these instructions. The memorandum said, in part:

> Do not contact anyone about the investigation without my expressed knowledge or consent. I do not want any implication raised that we have attempted to persuade anyone not to cooperate with the investigation.

I did not speak with either complainant to insure that this implication would not arise, with the exception of a single meeting with Ms. Dews, at her request, in the presence of a witness, and much more recent contacts with Ms. Phillips, at her request, on other matters.

The allegations made by Mr. Norell in his testimony are demonstrably false, and would have been determined to be false had he or another member of LSC staff made any attempt to verify the allegations prior to their publication. The are based solely upon the uncorroborated statements of a witness known to be unreliable. No investigation has been undertaken to determine whether the allegation is true notwithstanding the existence of a witness, and I have not been given any opportunity to respond to the allegation.

The information contained in this letter has been carefully verified with the attorney who assisted Ms. Dews, and to the extent possible is corroborated by the only witness available. I am willing to provide any further verification required.

I have been greatly disturbed by the manner in which officials of the Legal Services Corporation have circulated these false allegations about me, allegations which I consider to be irresponsible and defamatory. It is my sincere hope that your judgment concerning legislative action related to the Legal Services Corporation will not be based on such false and irresponsible allegations.

Thank you for your consideration of these matters.

Sincerely yours,

Kenneth L Schorr
Executive Director

KLS:amm

cc: Senator Thomas Eagleton

LEGAL SERVICES CORPORATION
733 Fifteenth Street, N.W., Washington, D.C. 20005

Donald P. Bogard
President

Writer's Direct Telephone
(202)

272-4040

January 4, 1984

Nelwynne Holly, Chairperson
Board of Directors
National Clients Council, Inc.
2739 Queen Avenue, North
Minneapolis, Minnesota 55415

RE: Denial of Refunding

Dear Ms. Holly:

This letter is to notify you that a preliminary determination has been made to deny refunding for 1984 to the National Clients Council (NCC) in accordance with 45 CFR Part 1625. Overwhelming evidence has forced us to conclude that NCC is in noncompliance with Section 1625.3(b) by failing to comply with provisions of the law, rules, regulations, guidelines, instructions and grant conditions issued by the Corporation.

Furthermore, NCC has failed to utilize public funds in a prudent or economical and effective manner. The Board of Directors of NCC has failed to exercise its powers to assure its fiduciary responsibilities and appropriate public stewardship. Therefore, the fiducial relationship between the Legal Services Corporation and NCC has been breached.

We are compelled to initiate this action as the result of a review of NCC's operations conducted in October and November 1983 which disclosed the following deficiencies:

1. NCC failed to comply with Section 1008(b) of the LSC Act as well as Grant Assurance 6 which states:

> "Applicant hereby assures and certifies that:. . . It will, upon request, cooperate with all data collection and evaluation activities undertaken by the Corporation, and give any authorized representative of the Legal Services Corporation or the Comptroller General of the United States access to all records, books, papers, or documents, provided that neither the Corporation nor the Comptroller General shall have access to any reports, records, or information subject to the attorney client privilege."

During the subject review NCC Executive Director, Bernard Veney and Chicago Regional Office Director, Irma Thearance refused to provide the LSC review team access to files relating to the regional and local affiliates of the NCC or correspondence with clients and clients groups.

2. NCC has violated the Moorhead Amendment to the LSC appropriations for 1981 and 1982 which restricted the use of any part of the appropriation "for publicity or propaganda purposes designed to support or defeat legislation pending before Congress or any state legislature." NCC has distributed mailings encouraging the solicitation of representatives and senators to influence their opinion on certain issues.

3. NCC has violated Section 1007(b)(4) of the LSC Act prohibiting the use of any LSC funds for activities prohibited by Section 1007(a)(6). NCC has produced mailings related to voter registration which are prohibited under the Act.

4. NCC has made improper use of LSC funds by (a) providing excessive salary advances to the Executive Director; (b) paying unreasonable and unnecessary commuting expenses, meals and lodging for the Executive Director in the city of his residence and principal office, and (c) failing to require staff, Board, and others to verify that funds advanced for travel expenses were so used.

5. The records of NCC do not show that it has effectively used its funds for the purposes granted, and in particular that it has provided client or client board member training in a quality and quantity commensurate with the amount of its grant.

6. The records of NCC do not show that it effectively communicates with, or receives input from, clients in general, clients serving on legal services program boards, or even its own membership. NCC has failed to adequately communicate with its members or maintain a current roster of members.

7. NCC has a history of ongoing administrative weaknesses including poor supervision of regional staff as stated in previous monitoring reports in 1980 and 1981.

Under regulation 1625 you have ten (10) days to request a review of this determination, but under the provisions of Public Law 98-166, you may submit a written request within thirty (30) days of receipt of this letter. Therefore, this determination will become final unless you submit such a request within thirty (30) days of receipt of this letter.

Sincerely,

Donald P. Bogard
President

DPB:cap

cc: Bernard A. Veney, NCC
Marttie Thompson, LSC

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MARY WRIGHT
Rapid City, SD

April 11, 1984

Mr. Kevin McGuiness
United States Senate
428 Dirksen Senate Office Bldg.
Washington, DC 20510

Dear Mr. McGuiness:

Enclosed you will find materials, which I directed staff to prepare, that set forth relevant facts about the 1981 grant award by LSC to NLADA. We have included information on NLADA's administration of the grant in terms of descriptions of work performed and goals achieved. We have also included a chronology of the recent correspondence between NLADA and LSC regarding the grant.

We hope that these materials will clarify some of the facts regarding the grant. We are convinced that a fair and objective review of these materials and the supporting documentation which is on file at NLADA and at LSC will show that NLADA has complied with and performed under the terms of the grant in every material respect. We hope this information meets the needs of the Committee and Senator Hatch, since we were unable to present oral testimony.

Sincerely,

Benjamin Lerner

Benjamin Lerner
President

BL/aoh

Encls.

LSC PROJECTS REPORT

Background

The National Legal Aid and Defender Association was founded in 1911 by members of the private bar concerned about the delivery of legal services to poor persons. Since 1911, NLADA has grown to be a coalition of groups including the private bar, persons eligible to receive legal services, public defenders, and attorneys providing civil legal services. NLADA is a 501(c)(3) non-profit corporation incorporated in the District of Columbia. The Association is managed by a Board of Directors of 21 people, elected and appointed by its members.

Since its inception, the National Legal Aid and Defender Association has provided technical and management assistance to those organizations and persons providing legal services to the poor. During the period from 1911 through 1960, before the creation of the Legal Services Corporation members of NLADA provided hands-on assistance to those traditional legal aid offices which were established throughout the United States. As a result of our assistance legal aid offices were established in virtually every city in the United States with a population of over 250,000.

Since the advent of federal funding to civil legal aid offices through the Office of Economic Opportunity (OEO), and the availability of funding on a national level to public defenders through the Law Enforcement Assistance Administration, NLADA has played a primary role in the delivery of technical and management assistance to offices providing services throughout the United States. In 1971, NLADA received a grant for the Management Assistance Project from the Office of Economic Opportunity which included training in such areas as program planning, fund raising, program evaluation, training, director orientation, fiscal and personnel management, community organizations, bar and board relations, and caseload and operating standards. Through that grant and its successors, which terminated in 1976, NLADA was able to play a vital role in the initial development of federally funded legal services through evaluation, training, and the development of appropriate material to be utilized by the legal services community as a whole.

In the area of public defender management and technical assistance, NLADA has been a leader for more than a decade in the development of national standards for legal services in criminal cases. We have provided broad-based technical assistance for the National Center for Defense Management, the Defender Management Information System Project, and the Appellate Defender Development Project. NLADA has contracted with a significant number of jurisdictions, including the District of Columbia and the states of Michigan, Alabama, Ohio, and Washington, as well as the cities of Seattle and Takoma, Washington; Dallas, Texas.

Currently, NLADA continues its advocacy efforts in support of quality legal services for the poor in addition to its training, management and technical assistance. These efforts are carefully monitored internally to ensure compliance with statutory and Internal Revenue Service regulation of non-profit activity in the area of legislative representation.

NLADA has had a long standing working relationship with federal agencies, federally funded organizations, private foundations, and other private sector organizations that are seeking improvement in the quality of the justice system in America, with emphasis on delivery of legal services to the poor. Currently, we are completing work on grants made by LSC in 1981.

In 1981 two factors came together to influence the award of management and technical assistance grants to the Association from the Corporation totalling $1,940,000. First, NLADA which had demonstrated broad and long-standing experience in the area of management and technical assistance had been seeking grants for that purpose from LSC over a period of two years beginning in 1978. Second, in 1981 LSC received a 25% reduction in its appropriation and reduced its operational expenses by 50%. The decision was made to cut out an entire training division and to contract out and decentralize the training functions previously performed by LSC. NLADA was the natural repository of some of the training functions because of its history and unique national experience in this area. The purpose of the grants was to ensure the continuation of a capacity in the national program to meet changing needs and problems through training.

In 1981, LSC utilized NLADA to continue a portion of the national training program. A grant was made to NLADA in two awards, one for $1,235,000 on September 28, 1981 and the other for $705,000 on December 10, 1981. Five projects were funded by the grants.

A.	Management Development and Technical Assistance	$1,200,000
B.	Leadership Development	$ 500,000
C.	Standards Development	$ 80,000
D.	Training on Private Bar Delivery	$ 140,000
E.	Library Manual for Legal Services Programs	$ 20,000
	Total	$1,940,000

A. **Management Project**

The Management Project provides management training and technical assistance to LSC grantees in such areas as office and personnel management, planned management responses to changes in funding, private bar relations, client participation, evaluation and assessment, office structure and efficiency, and management of legal work.

The Management Project has:

- Developed and conducted training sessions designed to meet the specific needs of managers in a particular project or region including nearly 100 training workshops and conferences for 2500 individuals in every state in the country.

- Identified individuals and teams with the expertise needed to provide technical assistance to individual programs. Responded to over 500 requests for technical assistance from legal services field programs, state support centers, bar associations, and Regional Offices of LSC.

- Ensured wide dissemination of managment relation issues by providing resource persons in selected substantive areas for major presentations at regional project director meetings.

- Established a Materials Resource Center which has prepared 16 major training manuals and resource guides and 4 major articles in the Clearinghouse Review. Distributed over 9700 copies of its publications to the legal services community.

- Maintained for program use a library of video tapes in areas relevant to management.

B. Standards Development

The Standards Development grant was made to NLADA to ensure the completion of a project that was begun by LSC. The goal of the project is to develop objective standards of performance for civil legal services providers. The project brought together members of the legal services community, clients, legal services lawyers and paralegals, group representatives, and private bar lawyers to discuss and draft a set of standards of operation for legal services programs.

The Standards Project has:

- Published and distributed for comment updated Standards to Corporation grantees, pro bono projects, appropriate Standing Committees, Sections of the ABA, and other committees of the organized bar at national and state levels.

- Coordinated activities to ensure receipt of comments on the Standards from leaders of diverse client organizations.

- Presented the Standards to the legal community at a variety of national and regional meetings.

- Analyzed comments and published a revised draft which is being distributed for endorsement by major national organizations in the legal services and client communities.

C. Leadership Development

Since the inception of LSC, discussions had been held within the legal services community regarding the need for strong leadership qualities in persons who, as a result of the expansion of legal services, would be heading million dollar law firms and managing large numbers of people. It was thought that these persons would need all of the technical, interpersonal, and conceptual skills that training and development could muster in order to work successfully in an environment that brought clients, the private bar, and other community institutions in touch with each other, hopefully in harmony, but sometimes in adversarial settings. NLADA was a leader in these discussions. It saw a need to train leaders and perceived a need to develop of new leaders to meet the continuing challenges that legal services programs had experienced and would continue to experience, in the form of reexpansion, retrenchment and controversy. NLADA applied for and received a grant from LSC to develop a leadership program.

The Leadership Development Project has:

- Published and distributed for comment, Leadership in Legal Services, a report on the state of the art of leadership within legal services; an analysis of the forces which impact upon the various leadership styles; proposed short and long-term methods which could be used to ensure on-going development of leaders in the legal services communities.
- Analyzed the comments of academics, service providers, social science practioners, and members of the client community.
- Used the respondents comments, the expertise of the Management Project and the criteria established in the Standards to design a circular for workshops and the structure for a long-term Leadership Institute.
- Conducted workshops to foster leadership among minorities involved in legal services progams, whether on the local board or directly involved in service delivery.
- Analyzed particular skill needs of clients currently or potentially involved in leadership positions in the legal services community.
- Designed and implemented workshops in skills related to leadership such as planning, values clarification, conflict resolutions and communications.
- Established an advisory body to develop criteria for "faculty" and participants in the Leadership Institute.

Seminars

Minority Bar Project Workshops - 10	400 to 500 participants
Developmental Workgroups Meetings - 7	7 to 10 participants per session

Leadership Effectiveness Workshop Dallas, Texas	31 participants (Legal services program staff and clients)

Materials

Leadership Effectiveness Workshop	Katherine Farquhar
Leadership in Legal Services	Joan Lieberman
Leadership Conceptual Monograph	John Powell
Management and Leadership Strategies for Minority Managers	Darryl Funches

D. The Library Manual for Legal Services Programs

The project was designed to prepare and distribute a library manual for legal services programs which would serve as an instructional tool for individuals or for operating legal services libraries of any size or structure. The Project, with the permission of LSC, was integrated into the Management Project and became a part of its resource development center and distribution system which is described under the Management Project.

E. Private Bar

The Volunteer Lawyers Project of the Boston Bar Association was awarded grant funds to provide training and technical assistance to legal services programs and others seeking to implement the Legal Services Corporation's Instruction on private attorney involvement. Technical assistance was essential in ensuring effective and timely compliance with the Instruction for the following reasons: (1) with the outbacks in program funding and reductions in staff, limited local resources would be available for any new initiative, resources which must be used effectively; (2) significant program experience existed concerning the development and implementation of successful pro bono and compensated private attorney involvement programs—experience which could be communicated to the field through publications and individual technical assistance, enabling field programs to benefit from the core of learning in this area, rather than proceeding by trial and error; (3) the existence of some field resistance to the private attorney involvement initiative required early, demonstrated success in implementing PAI among a number of programs; and (4) the expansion of private attorney involvement to all LSC grantees would undoubtedly lead to new designs, trends and initiatives, which could best be analyzed and implemented through a national technical assistance effort. VLP's training and technical assistance efforts consisted of the following:

- VLP worked closely with the Private Bar Involvement Unit of the American Bar Association and other ABA entities in developing training progams and responding to technical assistance requests.

- Under the aegis of the Legal Services Corporation, VLP sponsored three private attorney involvement workshops for legal services project directors, staff, and clients in February and March, 1982. These training events, presented in conjunction with ABA leadership conferences on the same topic, provided assistance to more than 400 persons in areas such as model selection and design, bar relations, quality control, etc.

- The Project, in conjunction with the ABA and LSC, sponsored a training conference for state and local bar leaders, program directors and staff and clients in January, 1983, to provide assistance in program design, implementation and evaluation.

- The Project, in addition to sponsoring its own training events, has assisted in the design of conferences sponsored by other groups.

- The Volunteer Lawyers Project has responded to approximately 400 individual requests for assistance.

- VLP maintains a comprehensive library of all papers relating to private attorney involvement, including a wide variety of program brochures, sample contrcts, etc.

- The Project has commissioned and distributed papers on a variety of subjects including: statewide pro bono projects, training for private attorneys, pai as a successful component of field programs, rural delivery, accounting procedures, program self-assessment and mixed systems.

- VLP has also provided materials, support and editorial assistance for materials produced by other groups, such as The Resource: A Pro Bono Manual, the ABA's directory of private bar programs, the PBI Activation Exchange, and ABA materials on lawyers referral systems and training.

LSC MONITORING

I. Status of Grants and the Scope of Monitoring.

The Corporation has asserted its responsibility to audit and monitor with respect to the grants made to NLADA. NLADA has not disputed such responsibility, but has requested reasonable notice and some clarification of the status of the grants, monitoring goals, standards and methodology. Given the events that have led up to the contemplated monitoring visit, NLADA has had good cause to be concerned about fairness and ample justification to insist on protective procedures. Some rather unusual events are described below.

1. In the very first communication from the Bogard administration concerning the grants to NLADA, Donald Bogard instructed NLADA to stop spending grant monies and return to the LSC any unexpended portion of the grants. As it turns out, Mr. Bogard's instructions were based on an erroneous interpretation of the grant agreement between LSC and NLADA, and ignorance of past LSC practice with respect to one-time grants. Mr. Bogard's precipitate, ill-founded instructions suggest pre-formed opinions, and—in the context of NLADA's public opposition to some LSC policies— raise genuine doubts about whether the LSC is proceeding in good faith. Mr. Bogard himself has not responded to either Mr. Lyons' or Mr. Lerner's repeated requests for clarification with respect to the status of the grants, except to indicate that the status of the grants is irrelevant to monitoring.

2. It is important to note that up until January 27, 1984, correspondence from the LSC to NLADA gave indications of a contemplated audit with respect to LSC grant funds. The January 27, 1984 Potack to Lyons letter introduces the first written notice of a contemplated monitoring visit. There is no explanation of why a contemplated audit became the more sweeping "thorough evaluation."

   The unexplained shift in terms is significant. There are generally accepted principles for the conduct of audits, but no such principles for monitoring or evaluation have been articulated by the Bogard administration. Moreover, the need for definition of monitoring goals, standards and procedures is especially acute where grants are not typical and where the LSC has no monitoring precedents to follow. Thus, NLADA's correspondence evidences a constant quest for definition of goals, methodology, standards and guidelines for the conduct of the monitoring.

   The situation has been compounded by the LSC's responses. Mr. Potack, in his February 27, 1984 letter, did define an amorphous goal:

> We intend to evaluate whether the expenditures were made consistent with the Legal Services Act of 1974, as amended, and those rules, regulations, policies, guidelines, instructions, and other directives issued thereunder by the Legal Services Corporation, as well as the terms and conditions of the grant.

However, neither he nor Mr. Bogard has been specific either with respect to methodology or standards. Mr. Potack enclosed a monitoring checklist with his February 27 letter and indicated that it would be used for NLADA. The checklist, however, raises nearly as many questions as it answers. It was prepared for use in monitoring Regional Training Centers and many of its questions have no bearing on LSC grants to NLADA.

3. Tone

   In addition to 1 and 2 above, the tone of Potack's letters do not strike one as the tone of an objective evaluator (see, e.g., letters of February 10 and 27). His tone is that of an adversary, not a fact-finder.

4. The LSC has failed to respond to FOIA requests about monitoring activities with respect to LSC funded entities such as the American Bar Association, the National Bar Association, the American Corporate Counsel Association, other bar associations and recipients of IOLTA grants.

5. LSC attempted to unilaterally defund, contrary to Congressional intent, all of the training projects that were in place when Mr. Bogard took over LSC. NLADA was the first target of Mr. Bogard's defunding efforts. In each case where a court has ruled on the issues, LSC has been overruled.

For the reasons set forth in 1, 2, 3, 4 and 5 above, NLADA has justifiably sought clarification and agreement on a number of issues. NLADA has tried to cooperate in structuring a fair process, and as the March 27, 1984 letter from Mr. Lerner states, NLADA has offered a date for monitoring notwithstanding the failure of the LSC to address issues of genuine concern.

III. Chronological Summary of Correspondence Regarding Audit and/or Monitoring Between NLADA and LSC

June 28, 1983
Lyons to Bogard
Invitation to talk and build constructive relationship.

August 31, 1983
Bogard to Lyons
1. LSC grants terminated December 31, 1982;
2. Stop spending funds and return unexpended funds;
3. LSC will schedule full and complete audit of records relating to those grants.

Spetember 9, 1983
Lyons to Bogard
1. August 31 letter misinterprets grant agreement between NLADA and LSC;
2. Upon proper and reasonable notice, NLADA will cooperate in making relevant information accessible to LSC.

September 21, 1983
Nusbaum to Lyons
1. Audit will focus on LSC grant funds; will not cover funds from non-LSC sources;
2. Requests budgets, workplans, etc., regarding expenditures of funds under LSC grants.

September 27, 1983
Lyons to Nusbaum and Ritter
1. NLADA will cooperate in audit;
2. Audit at this time, on short notice, in light of errors of August 31, 1983 letter suggests NLADA has been singled out for reasons other than financial oversight;
3. Will cooperate but time frames proposed impossible-- suggests LSC audit in conjunction with NLADA's annual audit in January, 1984.

October 5, 1983
Nusbaum to Lyons
Understands impracticality of proposed time frame.

October 9, 1983
Bogard to Lyons
1. Requests any information supporting Lyons September 9 position that grants have not terminated;
2. LSC proceeds to schedule audit.

November 11, 1983
Lyons to Bogard
1. LSC files, correspondence and employee recollections support NLADA's position;
2. NLADA's willingness to cooperate for audit reconfirmed.

November 18, 1983
Bogard to Lyons
Requests copies of documents supporting NLADA's position.

December 16, 1983
Lyons to Bogard
1. Sends copies of documents supporting NLADA's position;
2. Renews offer to meet with Bogard before issues become confrontational.

January 27, 1984
Potack to Lyons
1. Affirms intent of LSC to conduct monitoring visit with respect to LSC funds;
2. Dismisses Lyons telephone objections to LSC bias and promises objective but thorough monitoring;
3. Insists that monitoring visit take place week of February 20.

February 7, 1984
Potack to Lyons
Identifies members of monitoring team.

February 9, 1984
Lyons to Potack
1. Understanding and clarity needed on status of grants, goals, methodology and standards of monitoring;
2. NLADA will cooperate but on reasonable terms, consistent with LSC's responsibility;
3. Declined request for monitoring visit on February 20, given practical considerations (renovation, scheduled Board meetings).

February 10, 1984
Potack to Lyons
1. Lyons does not believe LSC entitled to visit;
2. Reschedules visit for February 29, 1984;
3. Willing to meet beforehand.

February 16, 1984
Lyons to Potack
1. NLADA consistently willing to cooperate;
2. Need to resolve legitimate questions, i.e., goals, methodology, standards;
3. February 29 date is arbitrary and capricious.

February 27, 1984
Potack to Lyons
1. You have refused access and rejected my offer to meet;
2. Stated broad monitoring goal and included monitoring checklist;
3. Scheduled monitoring visit for March 19 and requested documents by March 13.

March 14, 1984
Lerner to Bogard
1. NLADA will cooperate fully, but there is need for agreement in grant status, scope and conduct of review process;
2. Suggested procedure to resolve issues relating to review process.

March 19, 1984
Bogard to Lerner
1. Status of grants not relevant to monitoring;
2. Lyons has repeatedly refused;
3. Rescheduled for March 28-30, 1984.

March 23, 1984
Lerner to Bogard
1. Object to your failure to negotiate monitoring ground rules with good reason;
2. Week of May 2 set aside for your visit;
3. Information will be forwarded to you.

March 26, 1984
Bogard to Lerner
Suggested postponement not acceptable; team will be there on March 29.

March 27, 1984
Lerner to Bogard
1. Made every reasonable effort.
2. Offered May 2 despite LSC's failure to address concerns.
3. NLADA unavailable until May 2, given renovations.

LEGAL SERVICES CORPORATION
733 Fifteenth Street, N.W., Washington, D.C. 20005

Donald P. Bogard
President

Writer's Direct Telephone
(202)

February 10, 1984

Clint Lyons, Executive Director
National Legal Aid and Defender Association
1625 K Street, N.W.
Eighth Floor
Washington, D.C. 20006

Dear Mr. Lyons:

I am in receipt of your letter dated February 9, 1984. It is unfortunate that you waited two weeks to respond to my letter of January 27th. You could easily have contacted me before now to notify me that you would be refusing our access on February 20th. You have repeatedly accused the Corporation of being unreasonable and disrepectful in this matter. I disagree and seriously doubt that even you would argue that your two week delay in responding is reasonable. You are well aware of the difficulties in arranging a monitoring visit when outside, independent consultants are involved. You allege there is confusion regarding the administration of these grants and that I have misunderstood the essential points you were attempting to raise. There is no confusion on my part and I fully understand the essential points. The essential points are that you do not believe we are entitled to a monitoring visit and that the terms and conditions of any monitoring, even without a visit, must be agreed to by you. You have expressed outrage about the fact I scheduled a visit without your agreement, and because the monitoring team members were selected without your consent.

Your letter states that you do not define monitoring to include on-site visitation, particularly since the NLADA is not a regular grantee of the LSC. When I called you on February 8th, you stated that "NLADA does not operate on someone else's rules." I suggest you look at the special grant conditions attached to this award which specifically state that your organization will comply with all policies and directives "that are applicable to grantees under Sections 1006(a)(1)(B) and 1006(a)(3)(B) of the Legal Services Corporation Act." I presume you are aware of these and other conditions since, as you said on Jauary 26th, you and other former LSC employees were the persons responsible for awarding these grants.

You have stated that you are in the midst of your annual audit. I had five separate audits as Director of Wisconsin Judicare and cannot understand what problems that creates, especially with the amount of notice we have provided. You also stated that you are undergoing office and building renovations but did not indicate how this would interfere with our visit. Finally, you mentioned a holiday which NLADA will be observing on February 20th and a Board meeting on February 23rd. Although we have made arrangements to be there on February 20th, I am willing to accomodate you and reschedule the visit to start at 9:00 A.M. on February 29th and ending no later than 5:00 P.M. on March 2nd. This is thirty four days after January 27th and twenty three working days. I believe this recognizes the reasonable and legitimate expectations of all parties in the process. As I indicated in my letter of February 7th, the monitoring team will include Dan Nusbaum, Peter Weber, James Jannetta and myself. My team will be there at 9:00 A.M. on the 29th. You have no reasonable or legitimate expectation to be able to select the monitoring team or delay the visit. I regret that you are outraged by this fact.

I reassure you that this visit will be conducted objectively. I indicated in my letter of January 27th that I was willing to sit down with you the following week to discuss this matter. I therefore cannot understand why you keep mentioning that you have made a similar offer on numerous occasions. If you sincerely want to meet, then by all means let's do so.

Sincerely,

Gene M. Potack
Manager
Substantive Research & Support Unit

LEGAL SERVICES CORPORATION
733 Fifteenth Street, N.W., Washington, D.C. 20005

Donald P. Bogard
President

Writer's Direct Telephone
(202) 272-4356

February 27, 1984

Clint Lyons, Executive Director
National Legal Aid and Defender Association
1625 K Street, N.W.
Eighth Floor
Washington, D.C. 20006

Dear Mr. Lyons:

I am in receipt of your letter dated February 16, 1984, wherein you again refused access for a monitoring visit despite our attempt to accomodate you by rescheduling the visit for a later date.

You state that NLADA has consistently offered to meet to resolve various issues of the review process. However, I attempted to schedule a meeting when I talked to you on the phone on January 26, 1984. You refused to schedule a meeting or discuss terms until you received a formal communication from me regarding our intention to conduct a monitoring visit. I made the same offer in my letters of January 27, 1984 and February 10, 1984. It therefore appears that you are raising issues and making offers without any intention of resolving this matter or reasonably responding to our requests for information.

You attempt to justify your lack of cooperation by raising issues which you claim have not been responded to by anyone at LSC, including me. Since you apparently have no intention of meeting with me, I will attempt to respond to the issues you raised.

Your first inquiry relates to the goals of the monitoring visit. I thought I made it perfectly clear in my correspondence and conversations with you that we intend to evaluate whether the expenditures were made consistent with the Legal Services Act of 1974, as amended, and those rules, regulations, policies, guidelines, instructions and other directives issued thereunder by the Legal Services Corporation, as well as the terms and conditions of the grants. The Corporation has a responsibility to maintain its oversight management functions so that we can assure the Congress, our Board of Directors, and our client community that services are being provided economically and effectively. I find it difficult to believe that you need more clarification than that in light of your long history in legal services.

The other issues raised by you concern the standards to be applied and the methodology to be employed in implementing the review. I told you who would be conducting the visit three weeks ago. Since I have heard no objections, I assume you have no comments regarding the qualifications of the individual team members.

In terms of the areas and issues into which the team will inquire, I am enclosing a copy of the monitoring instrument developed for use during the monitoring of the Regional Training Centers. It includes three checklists and a description of how they were developed. This instrument will be utilized for monitoring and evaluating the NLADA grants. The reasons for using this instrument are: (1) You correctly stated that the bulk of funds were allocated for the Management Project; and (2) The Management Project Policy Board apparently decided that training activities would be emphasized, while individual technical assistance would be used only as supportive followup to the training. It is my understanding that the training packages were to be delivered entirely through existing networks such as the Substantive Law Training Center and Regional Training Centers. I therefore trust that you have already seen a copy of the enclosed instrument and agree that it is appropriate for the NLADA monitoring visit.

Your final point is that monitoring of the grant awards has already proceeded. You apparently view a few sketchy and delinquent quarterly reports for the Management Project ($1,200,000) as sufficient for the other projects. I would appreciate knowing which "subsequent agreement of the parties" you are relying upon to the effect that quarterly reports were not required for the Leadership Project ($500,000), Standards Project ($80,000), Library Project ($20,000) and Private Bar Project ($140,000). I would also appreciate knowing which agreement you are relying upon to the effect that no prior approval is required for consultant fees in excess of $2,500. In any event, I do not view the reporting (or lack thereof) referred to above as sufficient monitoring of these grants.

I reassure you that you and your program will be treated fairly in this process. Your program has not been singled out in any way for special treatment. However, the Corporation has a responsibility to maintain its oversight management functions, and given your long history in legal services, I am sure you can understand our position.

I am therefore rescheduling the monitoring visit for March 19, 1984. In addition to the materials referred to above, I would appreciate receiving, no later than March 13, 1984, copies of the following materials:

1. A copy of your accounting manual and chart of accounts, as well as internal management reports (budget-to-actual, etc.) for the period beginning January 1, 1981, and other information which explains in detail the status of the above-mentioned grants;

2. Copies of all Advisory Board minutes;

3. A list of past and current staff members of the Leadership and Management Projects;
4. A list of other NLADA staff members for the period from September 28, 1981 to the present time;
5. Copies of all workplans and priorities statements for the above-mentioned projects;
6. Copies of all reports, including those previously submitted to Anita Henry at the Atlanta Regional Office, relative to the above-mentioned grants;
7. Copies of all contracts with individuals and organizations for consulting fees paid for in whole or in part with the above-mentioned grants;
8. A list of all consultants and the amounts paid to date for each individual and organization;
9. Copies of agendas, lists of trainers, and lists of participants for all training events paid for in whole or in part with the above-mentioned grants; and,
10. Documentation of technical assistance consultations and followups.

I believe the grant conditions and subsequent agreements provide that NLADA will submit all appropriate information requested by the Corporation. I trust you will agree the information requested above is necessary for purposes of this monitoring. Since your audit process is well underway, I would also appreciate a call or letter this week to let me know approximately how much of each grant was not expended as of December 31, 1983.

Thank you in advance for your cooperation.

Sincerely,

Gene M. Potack
Manager
Substantive Research
and Support Unit
Office of Field Services

GMP:jmp

Enclosures

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Rapid City, SD

March 23, 1984

Mr. Donald P. Bogard
President
Legal Services Corporation
733 Fifteenth Street, NW
Washington, DC 20005

RE: Legal Services Corporation
Grant Actions: 81-0004 and
82-0001

Dear Mr. Bogard:

Thank you for your prompt response to my letter of March 14. I regret that the NLADA proposal for the monitoring process which would allow us to address and clarify some important issues prior to the review did not meet with your acceptance and approval. The resolution of the critical issues of the status of LSC grants made to NLADA and the ground rules for the monitoring process is important for a number of reasons. The status of the LSC grants to NLADA, as viewed by LSC, has implications for NLADA's planning in regard to the completion of the grants. Further, NLADA has delayed asserting claims that it may have under the appropriation language attached to Public Law 98-116 because we have been attempting to reach some cooperative clarification of the issue of status with LSC. Apparently, NLADA's position on this issue will have to be affirmed in another forum.

We believe that establishing clear guidelines and ground rules up front for the monitoring process will facilitate a review of what is essentially a unique relationship. NLADA is not a recipient of LSC in the sense of other grantees. It is an independent contractor whose LSC funded activities are only part of it overall activity. It seemed to us imminently good sense to address these issues in a serious way in order to avoid confrontation and delay once the review process was under way. Further, in view of the facts surrounding your initial contact with NLADA regarding the grants, the switch from audit to monitoring and the substance and tone of Mr. Potack's letters give us cause for concern. Those factors clearly argue for some clarity regarding the ground rules for review.

While we must lodge our objection to your refusal to discuss and negotiate the ground rules for the review process, we believe it important that NLADA continue to demonstrate its compliance with the intent and purpose of the grants. Consequently, I have instructed the Executive Director of NLADA to set aside the week of May 2nd for the monitoring visit requested by LSC.

I have further instructed the Executive Director to assemble information involving the LSC funded activity and forward that information to LSC at least one week prior to the visit.

NLADA will prior to the visit present to LSC a review procedure that we think meets statutory requirements as well as protect the legitimate interests of NLADA.

We look forward to completion of this process.

Sincerely,

Benjamin Lerner

Benjamin Lerner
President

cc: Clint Lyons
Mr. Gene Potack

bcc: Alfreda Harvey
Wayne Pressel
Jawara Lumumba
Bucky Askew ✓

GAO'S EVALUATION OF COMMENTS FROM DAVID A. GILBERT, DIRECTOR, LEGAL SERVICES CORPORATION'S DENVER REGIONAL OFFICE

In a May 7, 1984, letter to GAO, David A. Gilbert, director of the Legal Services Corporation's (LSC's) Denver regional office cited certain inaccurate or incomplete statements made in GAO's April 11, 1984, testimony before the Senate Committee on Labor and Human Resources. As the following discussion indicates, GAO disagrees with Mr. Gilbert's comments.

1. Mr. Gilbert says that GAO's statement that "the Denver regional director told us that he viewed these [strategies communicated by former senior LSC officials] as general directives to be implemented by local programs" is incorrect because it excludes his comments that these general directives applied only to LSC staff and not to program staff who are not LSC employees. He adds that LSC could encourage, but not direct, programs to implement such strategies.

GAO's testimony did not state, as Mr. Gilbert suggests, that LSC memoranda discussing survival strategies represented formal directives to be transmitted through a strict line of command from LSC to the local programs it funds. As we noted in response to one of the Chairman's questions, Mr. Gilbert considered these memoranda as LSC "policy statements" which the regional directors were strongly encouraged to implement. Further, Mr. Gilbert's comments are inconsistent with another statement he made to us that one of the objectives of the January 1981 Denver regional office project directors meeting was to transmit directives from LSC senior staff directly to project directors regarding the need to build local bases of support. In GAO's view, regardless of whether these survival strategy memoranda were or were not formal directives to local programs, the message to local programs clearly indicated that the top priority was to implement these strategies.

2. Mr. Gilbert states that GAO's testimony inaccurately characterizes his responsibilities for monitoring local program survival activities to insure they were consistent with LSC survival strategies. He notes that he repeatedly told GAO staff that he had some general responsibility to encourage the development of survival plans, but that he was not responsible for monitoring local program activities.

Our testimony did not state that Mr. Gilbert was responsible for formally evaluating local program survival efforts and reporting the results of such evaluations to LSC headquarters. Mr. Gilbert told us that the regional office's role entailed monitoring local programs' survival activities and ensuring that they were consistent with LSC survival strategies. Mr. Gilbert also told us he kept generally informed of the survival activities performed in his region and that he orally provided general feedback to LSC's office of field services regarding these activities.

3. Mr. Gilbert states that GAO's testimony inaccurately implies that the Denver regional office spent all of its time on survival activities, because GAO did not note Mr. Gilbert's

repeated assertions that the regional office continued to stress its compliance and monitoring functions.

We acknowledge Mr. Gilbert's statement that he told GAO staff that the Denver regional office continued to perform its compliance and monitoring functions during 1981. However, during our initial contact with Mr. Gilbert, and on several other occasions, GAO staff informed him that our evaluation was focused on the Denver region's role in LSC's survival effort, a point made on page one of GAO's testimony, and was not intended as an evaluation of the region's performance of other activities.

Although we did not determine what percentage of LSC's Denver regional staff time was spent on survival related activities, Mr. Gilbert's comment that survival activities constituted only a fraction of the region's work should be considered in context with other statements he made to us, and memoranda he wrote and received during this time period. For example, Mr. Gilbert told us that Denver regional office staff spent a great deal of time during December 1980 and January 1981 planning the Denver regional project directors meeting which he described in a December 31, 1980, memorandum to project directors in his region as ". . . an intense training session aimed at developing strategies for the maintenance of an independent high quality legal services program for the nation's poor." Also, although Mr. Gilbert told us that he could not specifically recall a December 5, 1980, memorandum from LSC's office of field services which said that regional office staff were to consider survival activities as a top priority in allocating regional office staff resources, he told us he would have considered such a memo as a general directive to be implemented by the regional office. Although Mr. Gilbert told us most of the regional staff resources were allocated to routine business, he acknowledged that some resources went to survival activities at the expense of other activities which he could not specify.

4. Mr. Gilbert believes GAO's statement that he told us LSC funded programs in Arizona performed various survival-related activities is misleading, because he told us he was not positive the activities were actually performed.

Mr. Gilbert's comment that the documents GAO showed him related to planned survival activities of Arizona legal services programs is incomplete. The documents from the Denver regional office's files describe activities consistent with LSC survival strategies and indicate that many grass roots lobbying activities in Arizona had advanced beyond the planning stage and had, in fact, already occurred. For example, the documents indicate that

--the Governor of Arizona was persuaded to prepare a statement supporting legal services,

--replies to unfavorable editorials had been prepared,

--three Superior Court judges had agreed to send supportive letters to both U.S. Senators and one Congressman from Arizona, and

--one local project director had presented a resolution supporting LSC to a local bar association.

Also, Mr. Gilbert acknowledged that the types of activities the documents described were considered permissable at the time and performed openly.

5. Mr. Gilbert describes GAO's reference to his statement that conducting survival activities in Arizona would likely have taken considerable time as "incomplete," and says he was acknowledging an assertion made by GAO staff. According to Mr. Gilbert, he told GAO staff that "the vast majority of resources continued to be expended on the legal representation of eligible clients."

Mr. Gilbert's statement that he was responding to GAO's assertion that survival activities in Arizona took considerable time is incorrect. Rather, GAO staff asked Mr. Gilbert whether or not performance of the survival activities in Arizona would have taken a considerable amount of time.

In lengthy discussions with GAO staff, Mr. Gilbert made clear that local programs were encouraged to, and actually did, spend time on survival activities. In fact, in a November 19, 1980, memorandum, Mr. Gilbert encouraged project directors to "enthusiastically and effectively marshall our resources" to broaden the base of support for legal services.

Mr. Gilbert's comment that GAO's testimony was incomplete because it excluded his remarks about the performance of activities other than those related to survival, suggests a misunderstanding of the purpose of our review. As we noted in our response to Mr. Gilbert's third comment, GAO staff on several occasions told Mr. Gilbert that our review was focused on whether LSC-funded programs in the Denver region expended resources on survival related activities, and was not intended to evaluate how much LSC funded programs spent on providing legal services. As a result, GAO's testimony did not discuss how local programs spent LSC funds except those used for survival activities.

Mr. Gilbert's comments appear to miss the point of GAO's testimony. Even if, as Mr. Gilbert suggests, LSC funded programs in his region spent the "vast majority" of their resources on the provision of legal services to the poor, the fact remains that resources were also expended for activities which in our opinion were prohibited by federal law.

6. Mr. Gilbert states that his interpretation of permissible lobbying activities was based entirely on interpretations issued by the Corporation's then General Counsel. GAO does not dispute this statement. The important point, in our view, is that in early 1981, the Denver Regional Director believed grass roots lobbying activities taking place in the region were legal, and he did not discourage local programs from engaging in these activities.

LEGAL SERVICES CORPORATION
Regional Office
1726 Champa Street, Suite 500, Denver, Colorado 80202 (303) 837-5981

Donald P Bogard
President

May 7, 1984

Mr. Franklin A. Curtis, Associate Director
Human Resource Division
U.S. General Accounting Office
444 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Curtis:

I am writing to correct certain inaccurate or incomplete statements made in GAO's April 11, 1984 testimony before the Senate Committee on Labor and Human Resources. I do not intend here to comment on the accuracy of the entire testimony, but rather to address solely some statements which are attributed to me.

1. The testimony states at page 7 that "the Denver regional director told us he viewed these [strategies communicated by former senior LSC officials] as general directives to be implemented by local programs". This statement is incorrect. What I told the investigators was that I regarded these as general directives for LSC staff. Since regional office staff work for the Corporation, they obviously must heed instructions from superiors. I stressed repeatedly to the investigators that program staff are not LSC employees. Consequently, the Corporation could encourage, but not direct, programs to implement such strategies.

   It would have been more accurate to state that considerable numbers of program staff looked to LSC for survival strategies and embraced them once offered. To my knowledge, there was never a strict line of command which ran from the top of LSC to the field and back. The GAO testimony implied otherwise.

2. The attribution to me in the third full paragraph on page 8 is inaccurate. I never told the GAO investigators that I was "responsible for monitoring local program survival activities and insuring that they were consistent with LSC survival strategies." Rather, I said that we had early in 1981

some general responsibility for encouraging the development of survival plans on the state level. We were not responsible for monitoring local program activities.

This distinction was made repeatedly during the lengthly interview I had with GAO and also in two telephone conversations with GAO in the two days immediately preceding the April 11, 1984, testimony.

3. The testimony may leave the impression that the Denver Regional Office spent all of its time on survival activities. This is not true. I noted continually in my interview and telephone conversations with GAO that this regional office continued during 1981 to stress its compliance and monitoring roles. Regional office plans for this period, obtained by and discussed with GAO, clearly state that "survival activities" constituted only a fraction of our plans. Accurate and balanced testimony should have reflected these facts.

4. The first full sentence in the first full paragraph on page 10 is misleading. In fact, the investigators showed me certain documents which related to the planned activities of Arizona legal services programs, and asked me whether the documents constituted the Arizona state plans. I responded that I did not recall ever having seen the documents, but might surmise that they constituted such a plan. I never said that the programs had actually implemented the particular plans described in the documents.

5. The testimony states in the middle of page 10 that "LSC's Denver regional director acknowledged that performing these activities likely would have taken considerable time". This is incomplete. I acknowledged the investigators' assertion that survival activities took considerable program time, but also said that the vast majority of resources continued to be expended on the legal respresentation of eligible clients. I also stated on a number of occasions that in the world of legal services, a paper plan did not necessarily mean it was implemented.

6. The paragraph at the top of page 12 attributes to me statements concerning the permissibility of "grass roots lobbying activities". It would have been more accurate to note also that my views were based entirely on intepretations issued by the Corporation's then General Counsel.

I wish also to record here the substance of my April 12, 1984 telephone conversation with one of the GAO investigators. He said he had some bad news and some good news with respect to the April 11, 1984 GAO testimony. The bad news, he said, was that some of the corrections I had sought to make in GAO's notes of my interview were not reflected in GAO's testimony. The good news, he said, was that GAO had determined that I had not done anything illegal, and I had not done anything LSC didn't encourage me to do.

Pursuant to conversations on April 18, 1984 with GAO staff, I request that these corrections and additions be made part of public record, attached to GAO's evaluation of my comments, and included in the committee record.

Sincerely,

David A. Gilbert
Regional Director

DAG:mm

cc: Donald P. Bogard, President, LSC
Gene M. Potack, Acting Director, OFS/LSC
John C. Hansen, Senior Evaluator, HRD/GAO
Jordan Richland, Evaluator, HRD/GAO

LEGAL SERVICES CORPORATION
733 Fifteenth Street, N.W., Washington, D.C. 20005

Donald P. Bogard
President

Writer's Direct Telephone
(202) 272-4020

August 17, 1984

The Honorable Orrin Hatch
Chairman
Committee on Labor and
Human Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed are answers to the questions you asked in connection with the oversight hearing held by the Labor and Human Resources Committee. Not included in these answers is the information you requested about the involvement of LSC funded programs in legislative redistricting decisions.

We will keep you informed as that investigation develops.

Sincerely,

James R. Streeter
Director
Office of Government
Relations

JRS:bmk
Enclosures

ADDITIONAL QUESTIONS FOR MR. BOGARD

Q: As I understand, Mr. Arango originally was given a contract for $110,000 of which $50,000 was not expended by the end of FY 1981. When his contract was extended for FY 1982, why was it increased to $110,000?

A: In November 1980, John Arango of Rio Grande Associates was given a $114,000 contract to assist LSC field programs with "experimental priority setting." However, in February 1981 Arango told Hulett "Bucky" Askew, Deputy Director of the Office of Field Services (OFS), that he could not spend the $114,000 within the contract period. So Askew extended the contract to April 1982. This apparently conflicted with a LSC Board directive that all 1981 one-time funds (through which Arango was contracted) be spent by September 30, 1981. If LSC staff was unable to spend these funds then, the Board would have to include them in their FY 1982 budget. Askew solved this problem late in August 1981 by granting $50,000 (balance of the Rio Grande contract) to the Legal Aid Society of Albuquerque (LASA) who would then contract with Rio Grande.

Despite the LSC Board directive, by September, 1981 3-4 million dollars in 1981 one-time funds still remained unspent in LSC headquarters. So the staff had to move this money quickly or allow the Board to reallocate it. LSC officials decided to solicit state support proposals for a large portion of these funds.

Unfortunately, the Denver, New York and Philadelphia Regional Offices of LSC failed to process the proposals quickly enough to enable the grants in their regions to meet the September 30 deadline. So Walker Thompson, State Support Coordinator for the Office of Field Services, called John Arango in mid-September 1981 to request that Arango accept additional monies through a LASA grant to fund these three regions' state support proposals.

Arango protested that he knew nothing of state support activities and that he didn't want to be responsible for overseeing these expenditures or be an LSC subgrantee. But Thompson assured him that Askew and Thompson would supervise this grant and they would tell Arango when to send which programs what amounts of money. Thompson assured Arango that he would retain his contractor status with LSC. In effect, Arango was to be a check-writing machine. Arango says he acquiesced, based upon these assurances.

LASA Director, Steve Granberg, was informed of LSC's desire to grant this additional money to Rio Grande Associates through LASA. Granberg didn't want the legal and financial responsibility for these funds either; but was given the same assurances as to oversight responsibility that were given to Arango. Additionally, Granberg was told that LASA could keep the interest earned on the $303,204 grant as a bonus. Granberg and his board say they agreed to accept the grant as "favor" to LSC.

The grant which was given to LASA allocated the $303,204 by seven tasks: Tasks I-IV added $58,875 to Arango's current priority setting contract; Task V provided LASA the aforementioned $50,000 balance of Arango's contract; Task VI set aside $177,029 for state support activities; and Task VII gave $17,300 for technical assistance on project director selection. Arango claims no advance knowledge of the $58,875 addition to his contract and there are no records within LSC to explain this addition.

What is the National Organization of State Support Units (NOSSU)?

The National Organization of State Support Units (NOSSU) was created in December 1981 to coordinate and focus the activities of the newly-expanded state support network. NOSSU would serve as liaison between the state and national support centers to help develop a unified national strategy on block grants, budget cuts and substantive changes in poverty programs. NOSSU is also the official spokesman for continued state support funding.

Q: Did NOSSU receive funds from the grant being administered by Mr. Arango and, if so, how much?

A: Yes. $36,875 was set aside from the Arango grant for the initial NOSSU expenses. Most of the money has been spent on the salary and expenses of Dick Skutt, the original Director of NOSSU. As of March 7, 1984, $2,112,82 remain in the NOSSU account.

Q: Were Corporation officials involved in the formation of NOSSU?

A: According to John Arango, Walker Thompson called him on November 24, 1981 and instructed him to set aside the approximately $34,000 remaining from the state support budget for the use of NOSSU. (The final figure of $36,875 was not known until July 1982 when Arango paid all the outstanding bills and Askew called to confirm this transfer.) As Thompson explained it to Arango, NOSSU would use this money to lobby LSC for continued funding for state support. (As State Support Coordinator, Thompson was the LSC official whom NOSSU would lobby.)

NOSSU needed more than money from LSC, it needed leadership. Askew noted at a meeting in November of 1981 that:

> NOSSU is leaderless & needs someone to tell them what to do--VG [Victor Geminiani, Atlanta Regional Director] might consider an offer to do it if approached (talk to [Dick] Skutt [Director, Michigan Legal Services] & Leanna [Hart Gipson, Chairman of NOSSU and Director, Tennessee Association of Legal Services.]

Geminiani did not, however, take the NOSSU position. So this problem was not solved until May of 1982 when Dick Skutt was selected for the post.

According to earlier testimony, $106,000 of the $303,000 administered by Mr. Arango was given to a variety of state support activities. Would you explain what activities were funded?

The grant was modified by a memorandum of understanding between LASA and LSC which was signed in early October 1981. This agreement directed LASA to assist state support projects in "implementing a coordinated approach to the legal issues arising out of the implementation of block grants, related programs and other Federal assistance programs. The recipient was also to "assist legal services programs and eligible clients in addressing significant substantive issues, and ... become more economic and effective in the delivery of legal services. However, the crucial statement in the agreement defined the state support projects to be undertaken with this grant as "any activity approved by the Director of the Office of Field Services of the Legal Services Corporation or his designee on or before November 30, 1981."

In keeping with the instructions of Bucky Askew and Walker Thompson, LASA contracted with Rio Grande Associates to carry out the tasks described in the grant--except for the project director selection function which was given to Wayne Pressel, another long-time LSC consultant. (Pressel apparently had a separate agreement with Messrs. Askew and Thompson.)

The agreement between LASA and Rio Grande Associates also explicitly stated that the state support activities undertaken were to be at the sole discretion of the Director of OFS. So Arango had the money, but LSC officials kept control.

In January 1982, Arango gave large advances to several state support projects whose proposals were approved by LSC.

One of Arango's first grants was to the Northern New Mexico Legal Services Project (NNMLSP). It was given $17,010 for the following three purposes:

1. Jail conditions lawsuits,
2. Redistricting advocacy as a result of the 1980 census, and
3. Continuation of statewide advocacy efforts on behalf of clients on issues arising out of changes in Federal programs for the poor.

NNMLSP has held numerous training sessions on how to plan, prepare and pursue jail conditions lawsuits for legal services workers throughout New Mexico.

In 1982 NNMLSP successfully challenged New Mexico's reapportionment plan and was subsequently awarded $95,000 in attorneys fees.

Next, Rio Grande Associates awarded the Greater Upstate Law Project (GULP) $34,000 to sponsor a March 1982 conference in New York City on "Strategies and Substance for the 80's" which was attended by 174 legal services advocates, community organizers, labor activists and political figures.

This conference, though sponsored by GULP, was planned, organized and executed by Salvador Tio, LSC New York Regional Director. Tio's objectives were announced in his conference call of February 28, 1982:

> As all of us know, the proposed new federalism is a juggernaut designed to do away with many of the substantive rights and benefits we have litigated on behalf of our clients. It further compounds an already crticial situation and will adversely affect the pocketbooks of poor people and essential services inherent to any society which aspires to be a just one.
>
> It is fitting that we set aside the time to assess how these changes of immense proportions will change the lives of the people we represent and the new strategies we may undertake on their behalf.
>
> The three days in March we are requesting you, members of your staff, and the general community to set aside for these discussions will bring together approximately 200 persons from all parts of this region. We will all jointly explore the historical context we are in, assess the present crisis of unmet human needs, develop strategies designed to satisfy them and test them against the reality of our limitations.

> We also believe this conference will enhance our capacity to act in a more unified manner as a bulwark against future attempts to further undercut the rights of the poor.

Gary Bellow, Executive Director, Legal Services Institute, prepared a speech for this conference in which he elaborated on this theme:

> Needless to say these are terrible times. Deregulation, reindustrialization, the new federalism--all code words for a systematic dismantling of the social gains of the last thirty years--are only the public expression of corporate America's larger program of upward redistribution of wealth and power in the next decade. There is no doubt who is going to pay to 'make American industry competitive again.'...
>
> In these circumstances, there is surely a certain helplessness (and frustration) that accompanies asking, as we are here, what a small number of legal services workers can do.
>
> Nevertheless, this is precisely what we should be asking each other. Without minimizing the difficulties, it seems clear that the most important item on the liberal-left political agenda today is resistance--day-to-day actions and challenges, even in the face of narrowing options, and the absence of a clear vision of alternatives.

Bellow defined their "liberal-left political agenda" thus:

> (M)ost of us agree that (i) America maintains a deeply stratified class system; (ii) changing this system, and its most recent manifestation in Reagan conservatism, is a primary concern of most of us who do legal services work...

The attendees were then given several suggestions on how legal services could work to effect this change. What follows are samplings of Bellow's ideas:

We need to expand the number of poor people we help.

> I realize that, given the cutbacks and prevailing feelings of overload this suggestion seems mad. Nevertheless, my own judgment is that in these times fostering real resistance among our clients and in the communities in which we work require regular direct contact with very large numbers of people. Done properly ... such contact can (i) increase people's sense of grievance and entitlement; (ii) identify potential activists and community leaders; (iii) uncover and encourage opportunities for collective action (tenants unions, neighborhood groups): (iv) spot exploitive practices of agencies and individuals that can be prevented or modified by exposire or focused legal and political action. Each of these efforts, carried out in any siginificant numbers, can make important contributions to fostering the sort of liberal-left oriented community based politics which is needed to respond to the problems of the eighties ...

We need to enlarge eligibility to include the near-poor and low-income working people in the population and groups we serve.

> Again, I understand the very difficult trade-offs in this proposal. Given limited resources, less people in the most dire financial circumstances will be served.
>
> Nevertheless, if you share my view of the centrality (to our own work and to any effective responses to Reaganism) of community based coalition-oriented struggle in a mass left-liberal politics in the eighties it just doesn't make sense to draw sharp lines between the poor and the near-poor in the way we have...

Bellow explained that his coaliton-oriented struggle required:

> . . .linkages between and within the women's movement, anti-racism coalitons, the union movement, and a wide range of environmental anti-nuclear and other groups. I believe the divisions are not as deep as they appear, and that the right's coalitions are far more fragile than they seem, but there is a great deal of evidence to the contrary...

We need to make internal political education an important priority in our work

> . . . The locus and reality of legal services work is the reality of class politics in the United States. The community work to which I want us to connect requires us to confront our own views and attitudes toward class, racism and gender because the work is inevitably embedded in, and constituted by those concerns.

Bellow closed his speech by challenging these activists not to let their dreams die: "The mega-realist forgets too soon, not only how to dream, but the energies that dreams release. It was Bobby Kennedy who asked why not, and most of us would have followed him anywhere."

Following this day of speeches, the participants broke up into small groups to discuss four "crisis situations" (welfare cuts, the plight of the homeless, plant closings and unsafe public housing projects), and background materials were distributed and discussed. Typical handouts included:

o Time-Honored Disguises & Borrowed Language

> Looking ahead into the 1980's, there are many things from which we can take encouragement. The program of the right, the Republican right, the organizational right and the corporate right cannot and will not solve any of the problems which the country now faces. They may be organizing faster than we are at the moment, but it is based on illusion. The only organizations in America which actually improve people's lives and economic conditions are the citizen organizations, the women's organizations, the organizations of minorities, the senior organizations and the trade unions. Even today these organizations represent a powerful force. Potentially they represent a majority coalition which the right wing cannot hope to equal.

> o Economic Notes--Focus on Women Workers
>
> Through all their adult lives, the inferior status of women envelops and degrades both sexes in sexism, in pornography, rape, denial of rights to abortion, wife battering, sexism in advertising, denial of credit--endless forms of inequality.
>
> The burdens of child bearing, child rearing, cooking, laundering, cleaning are still shouldered almost exclusive by women.
>
> o Millions Robbed. Reagan Hoods Suspected
>
> The government's economic policy is making most Americans poorer. It is cruel. And it is leading to economic disaster.
>
> o Plant Closings Bulletin
>
> Finally, as we go about organizing against plant closing, we must keep in mind the relationship between plant closings and other public policy issues. This issue is exciting for the democratic left, not only because it offers us an opportunity to build broad, community-based coalitions, but because it offers us an opportunity to ask the fundamental questions about the nature of capital and the inordinate power given to those who control it. Bringing these questions to the forefront of the national political debate would be a critical step towards [sic] rebuilding a broad-based American socialist movement.

Participants concluded the conference by developing strategies and forming task forces to fight the "Reagan right" within their local communities.

The Colorado Coalition of Legal Services Programs received $5,000 from Rio Grande to "provide advocacy on behalf of clients on issues arising from changes in federal programs for the poor. The Coalition hired Daniel Taubman, formerly of the Center on Social Welfare Policy and Law, to undertake this lobbying.

Rio Grande also spent at least $15,000 in support of a November 1981 state support training conference in Charleston, South Carolina. The prevailing theme of this conference was how to continue lobbying despite upcoming Congressional restrictions. Several papers were prepared and disseminated in Charleston.

Allan Rodgers, Executive Director of the Massachusetts Law Reform Institute, acknowledged that:

> Recent activity makes it clear that sizeable majorities in both house of Congress do not believe the federal government should be funding legislative advocacy for poor people.

However, he continued,

> . . . Legislative advocacy is becoming increasingly critical for poor people, particularly at the state level. We must find ways to keep it going and even expand it. Two essential approaches to this end are evident. Legislative advocacy will have to be carried on outside an LSC grantee and funding sources must be found which are impervious to attack or retaliation by government.

So Rodgers offers the state support centers a suggestion.

> You can set up a second nonprofit corporation, which will not be the LSC grantee, to do lobbying and other activities banned or restricted by the LSC Act. Your legislative advocates could set up their own practice, which could take the form of a for-profit corporation, a partnership or a professional corporation. Or, you could choose to engage an existing firm that does lobbying.
>
> You will, of course, want to ensure that the advocates follow the priorities and directions of your program and its clients. This might be done through a consultant contract with the outside entity or through staff and client representation on the governing body of that entity.

We learn in an addendum to this paper that several state support centers (notably Indiana and Tennessee) have taken Rodgers' advice. They

> decided to conduct their future legislative advocacy through former staff members who will set up independent offices and will attempt to secure new funding with the help of broader coalitions of people and groups interested in similar issues. These other organizations may in some cases pool their money and fund-raising efforts to build up enough to compensate a core of lobbyists.

Should that idea not work, Rodgers offered a number of other ways to keep lobbying despite Congressional restrictions:

Use of 1981-Derived Funds--1981 LSC or privately generated funds might be advanced to an outside legislative advocacy office under a contract to provide or carry on legislative activities for clients during 1982. If the private funds were committed before 1982, anyone trying to claim its illegality should have a hard time succeeding because the only applicable restriction is 1010(c), and if the funds are already committed by 1982, they are not available to be restricted for legislative advocacy use.

The argument for the legality of an advance of 1981 LSC funds is harder to make. On the one hand, they would be committed and therefore not a carryover balance after December 31, 1981. On the other hand, it is not clear that a legal services program can validly tie up LSC funds for a period beyond the end of the current grant year. On balance, it seems worth a try if there are no other alternatives for funding the needed funds for an effective 1982 legislative effort.

Staff Lobbying on Own Time--Staff could perform lobbying activities during breaks or during time not counted as work time. This possibility was mentioned approvingly in the debate in the House.

Poor People's Political Action Committee--PAC's are very common now and are usually authorized and regulated by state law. In Massachusetts, a Poor People's PAC has been set up with its board consisting of a majority of clients. It will raise funds through direct mail and through approaching other groups such as unions and other PAC's for larger contributions. Most of the proceeds will be devoted to lobbying activities for poor people through the firm that has been doing legal services lobbying for the past year. Legal services staff could also be asked to make personal contributions to this effort.

Russ Murray, Alan Houseman's deputy in the Research Institute, came to Charleston to push a narrow, specific proposal. State and local taxes must be raised to avoid "forthcoming revenue shortfalls and to prevent drastic benefit and service cuts." How could this be achieved?

> Legal services advocates should avoid like the plague, a reactive posture. Tax policy is like football in that the best defense is a great offense. One should assume that any tax package evolving from the present "players" in your state (legislators, governor, business lobbyist, and state agency officials) will be a poor one. You must promote and encourage discussion of a more positive tax package...
>
> Any attempt to influence tax policy should be viewed like a political campaign. Perhaps the most important task is to promote the exposure of your "candidate." Referencing the active rather than the reactive theme noted above, it is essential that you do your utmost to assure that your agenda is at least before the public. If you spend your time reacting to the "terrible" proposals of the opposition you have already lost the battle.

Therefore, the support centers should communicate with following groups to promote broad support for their "candidate."

> Friendly legislators--This is obvious and the more influential the better.
>
> Allies--Most of the community groups that you have worked with on other legal services issues will probably not be interested in state tax issues. However, if they have a method of communication with their membership, that mechanism can be used to expose their membership to the state revenue issue and to promote proposals which would have a less negative impact upon low income people.

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Media--You should assume that without some outside influence the media will only report upon the proposals set forth by the traditional, influential groups in the state.

Labor Unions--If your proposals are acceptable to labor, you may be able to use their membership communications to inform them of the issues and the most satisfactory methods of raising any additional state revenues.

Business Groups--This is not a tongue-in-cheek remark. Those of you who are familiar with how tax policy is formulated at the state level know from whence came the cliche, "politics makes for strange bedfellows."

How can taxes be raised? Murray gives several options.

Sales Tax--the expansion of the coverage of sales tax can be oriented toward those services used primarily by higher income taxpayers.

Corporate taxes--Most important is to prevent the adoption of depreciation rules which will lead to significant revenue losses from the corporation tax.

In those states where the depreciation rules are adopted automatically, compensating increases in corporate tax rates could be proposed to offset the losses.

Several states, including Connecticut and New York, have enacted gross receipts taxes upon oil companies. This is an option in some states where the oil lobby is not all-powerful and the consumer outcry about oil company profits has not subsided.

Severance and production taxes--again this is dependent upon the clout of the oil and mining companies as well as taxpayer susceptibility to populist appeals to tax the corporations. North Dakota enacted a significant oil and gas extraction tax last year so it can be done.

Improved Collection Procedures and Cash Management--More frequent collection of certain business taxes to improve the cash flow to the state and increase the opportunity for greater interest income.

> Excise or "Sin" Taxes--Cigarettes, liquor, and gasoline tax rates can be increased. Or the tax can be changed to an ad valorem rate, a percentage of the price like the sales tax.
>
> Income Tax--Rate Increases.
>
> Restructuring of the rate system. This may include imposing progressively higher tax rates at relatively high income levels. . . . For example in Kentucky and Missouri, the top rate is triggered at taxable income levels of $8,000 and $9,000, respectively. In these states, higher tax rates at higher taxable income levels ($30,000 - $50,000) could be imposed. In those states with indexing, consideration should be given to "watering down" the present formula so that the effects upon state revenues is minimized. Indexing can be very expensive. . . .

Murray closed with this reminder:

> We are seeking an opportunity to influence the policy making process for two reasons. One, so that the worst possible tax packages is not adopted. And two, to assist the enactment of some tax package so that the state's fiscal crisis is not resolved by draconian reductions in those benefits and services received by legal services clients. With hard work, a cooperative media, and incredible luck you may even succeed. Good luck.

Louis Armstrong of the Mississippi Legal Services Coalition exhorted the state support centers to influence the block grant process:

> The Governor's office of Federal-State Programs is conducting public hearings across the state during the month of November. Recipients, providers, and any interested citizen will have an opportunity to present ideas and suggestions on how the Block Grant funds should be used. This may be our only real change to impact the Block Grant implementation process because you know how the Mississippi Legislature feels about poor and oppressed people.

> Many times in the past we have worked to turn people out for a hearing or a meeting, or a workshop or something. But this time it is important that we let the Governor and the State Legislature know hcw we feel about who should be served, who should serve and how people are to be served. We need at least 1,000 people at each hearing.
>
> You must get as many church groups, social groups, fraternal organizations and individuals to attend these meetings as possible. You will make the difference. If we do not attend these hearings and voice our opinions then they will say we are not concerned - and they will be right.

Faced with such dire stratits, clients needed ideas on what to say at these block grant hearings. So Armstrong provided a number of examples:

> My elderly mother can stay in her own home with the help of a homemaker and a visiting public health nurse. If this stops we may have to put her in a nursing home. I have to work to support my family and can't quit work to take care of her.
>
> My elderly father lives with us but goes to adult day care every day. His mind is bad and if he is left alone he wanders off from home and gets lost. With day care for him I can still work and support my family. Otherwise either I'll have to quit or my high school daughter will have to stay home to look after him.
>
> When the day care center opened up I was able to put my children there in a good safe place and get myself a good job. If it closes up, I guess, I'll have to quit work and go back on the welfare.
>
> My wife is expecting our second child and I just lost my job. I can't pay expensive hospital and doctor bills. Where can we go for health care?

> I am pregnant and have a history of miscarriages. I don't have Medicaid. Will the Health Department be able to give me prenatal care?
>
> I have a handicapped child. The day care center has done wonderful things for her and taught her a lot of things that I could not do at home. I don't know what I'll do if [sic] it closes down.
>
> I now have Medicaid but will lose it because I work. My child has colds and pneumonia a lot and I don't have health insurance on my job. Where can I take him when he gets real sick? I can't afford a private doctor.
>
> My teenage daughter has been getting help for a drug problem from a mental health center. Will this kind of service continue with the budget cut and block grant?
>
> Will the block grants help us get better mental health service for children? My 13 year old has severe emotional problems and we can't afford a private hospital for her.

The Legal Aid Bureau of Baltimore received $18,000 from Arango to "undertake an analysis of change in the areas of (1) Health and Social Programs; (2) Housing; and (3) other programs that affect the poor." According to their workplan, after completing this review, the Legal Aid Bureau would "develop strategies for influencing distribution and administration of funds." The project would conclude with the "compilation of results of materials into a manual for distribution to low-income and community groups.

Legal Services of New Jersey received $18,000 from Arango to partially fund a statewide litigator. The remaining costs of this position (approximately $31,000) were to be borne by the other New Jersey program.

Arizona Statewide Legal Services Project received $5,000 to update their Arizona Legal Services Practices Manual.

The Texas Legal Services Center received $10,000 to "coordinate program's state level advocacy efforts on behalf of clients on issues arising out of changes in federal programs for the poor." Under their workplan, TLSC agreed to "develop written reports outlining the likely effects of changes in federal and state law and policy on poor people in Texas;" "inform program staff and clients about activities of other advocates by telephone contact, mailings and newsletter articles;" and "disseminate information on advocacy strategies by telephone, mail, or by publishing articles in the newsletter." TLSC contracted with Karen Langley and Clarence Johnson, former program employees now associated with the Poverty Education Research Foundation, to perform these activities.

Has the Corporation received audit reports on the activities funded with the funds administered by Mr. Arango? If so, would you make copies of these reports available to the Committee?

Grant Condition 6 required LASA to "submit to the Corporation written reports describing its activities and progress and stating its grant expenditures for each of the tasks covered by this grant." However, such reports have not been made. Arango is prepared to submit reports on his activities under the technical assistance task, but says he does not know enough to report on the state support activities. Moreover, based upon their understanding with Walker Thompson and Bucky Askew, neither Arango nor Granberg feel responsible for the state support activities.

Q: Under existing law, is it permissible for the Corporation to fund organizations which lobby the Corporation?

A: Nothing in existing law would prohibit the funding by the Corporation of organizations which lobby the Corporation. In fact, programs regularly "lobby" the Corporation through comments on proposed regulations, pursuant to the terms of the Act (§1008(e)).

Q: Under existing law, can the Corporation initiate the formation or act as an organizer or initial financier of an association, federation or some other entity?

The prohibition against the use of LSC funds to initiate the formation or act as an organizer, etc., of association, federations or other entities is contained in §1007(b)(7) of the Act. The relevant language states:

> (b) No funds made available by the Corporation under this title, either by grant or contract, may be used -
>
> (7) to initiate the formation or act as an organizer, of any association, federation, or similar entity, except that this paragraph shall not be construed to prohibit the provision of legal assistance to eligible clients; (emphasis supplied)

It should be noted that the prohibition is directed toward grantees or contractors - recipients of LSC money - rather than the Corporation itself, and there is an exception to the prohibition to allow the provision of legal assistance to eligible clients.

The legislative history appears to be silent on the issue of whether the Corporation itself can do what is prohibited to recipients. However, in the early days of the Corporation, at a time when it was establishing new programs, it probably carried out just such activities many times. The plain language of the relevant section of the Act indicates it is not improper for the Corporation to do so.

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Honorable Orrin G. Hatch
Chairman
Committee on Labor and Human Resources
United States Senate
Washington, D.C. 20510

Dear Senator Hatch:

The following are the responses of the National Legal Aid & Defender Association to questions posed in your May 22, 1984, letter to me.

1. Please list each grant or contract, including a description of the purpose of the grant or contract, the total cost of the grant or contract, and the status of the grant or contract, which was awarded to the National Legal Aid and Defender Association (hereinafter NLADA) by the Legal Services Corporation (LSC) in 1980, 1981, 1982 and 1983.

Response

In 1980, NLADA received an LSC grant in the amount of $57,943 to conduct the Access to Justice Project. The purpose of this project was to maximize the ability of legal services clients to pursue their claims in Federal courts. In 1981 and 1982, LSC granted additional funds of $186,757 and $5,000, respectively, to NLADA to continue to conduct the Access to Justice Project. No further funds were awarded to NLADA for the Access to Justice Project, and that Project was completed in early 1983.

In 1981, LSC made two grants totalling $1,940,000 to NLADA for five new projects. The amounts, purposes and status of those grants is described in Attachment #1.

In 1981, LSC also contracted with NLADA to have NLADA conduct public affairs training for legal services programs and to produce a Public Affairs Training manual. The amount of the contract was $12,000. A grant of $2,500 was also made by LSC to NLADA for the Law Firm Resources Project, the purpose of which was to develop links between law firms and legal services programs. The public affairs training and manual and the Law Firm Resources Project were completed in 1982.

No grants have been made to NLADA by LSC since 1982.

2. Please provide a copy of every financial, progress or status report prepared in conjunction with the grants or contracts listed in response to Question 1.

Response

The reports requested are provided as Attachments #2 through #14.

3. Has NLADA provided to the Corporation all financial and progress reports required under the terms of the grants awarded to the Association by the Legal Services Corporation? If not, why not?

Response

Based on its understanding of the terms of the grants, NLADA believes that it has complied fully with the financial and progress reporting requirements.

4. During the fall of 1981, the Legal Services Corporation solicited a series of grant proposals from the Association which resulted in the Association being awarded an estimated $2.2 million in grants. Please explain NLADA's involvement in the awarding of the grants?

Response

The only way in which NLADA was involved in the awarding of the grants was to respond to LSC's request for proposals.

5. During a recent hearing before the Committee on Labor and Human Resources, witnesses testifying on behalf of the Legal Services Corporation stated that they have been unable to conduct a monitoring visit with respect to funds provided NLADA by the Corporation. As I understand, the Association has just recently permitted a Corporation auditing team to begin the audit. Why did the Association refuse to allow the Corporation to conduct an audit in the past? Secondly, what new developments caused the Association to change its position and allow the Corporation auditors to begin their monitoring visit?

Response

NLADA did not "refuse to allow the Corporation to conduct an audit." NLADA responded to the request for an audit by inviting LSC to conduct the audit at the same time as NLADA's independent audit for fiscal year 1983 was being conducted. LSC never responded to that invitation. Later, LSC requested a monitoring visit. The use of the terms "monitor" and "audit" interchangeably in your question exemplifies one of the issues that did, in fact, give rise to some delay in LSC's monitoring visit. LSC refused to enter into a dialogue to clarify this issue, which was directly related to the status of the grants. LSC also declined to set forth any meaningful guidelines for monitoring NLADA, which is not a "recipient" of LSC funds, as that term is defined in the Act. From NLADA's point of view, the LSC approach was openly adversarial and caused misunderstanding and delay. However, as noted in your question, all that is now moot: the monitoring has taken place.

6. Please explain the circumstances leading to the hiring of Clint Lyons as Executive Director of NLADA?

Response

Members of the Board of NLADA learned of Howard Eisenberg's intention to resign as Executive Director in late January, 1983. Mr. Eisenberg formally submitted his resignation to NLADA's Board on February 6, 1983. The Board set up a search committee to find, and on February 20, 1983, began a national search for, a new Executive Director. Over 200 applications were received and screened. Six finalists were interviewed, of whom Clint Lyons was one. Clint Lyons was selected as Executive Director by a unanimous decision of NLADA's Board of Directors on May 1, 1983, because of his superior qualifications for the position. Mr. Lyons' appointment became effective June 7, 1983.

7. Please explain the circumstances leading to the hiring of Huelett Askew as a consultant to NLADA?

Response

Mr. Askew was hired as a consultant to NLADA on September 7, 1983, to work on a privately-funded grant. For approximately four months prior to that, Mr. Askew performed volunteer and *pro bono* work for NLADA.

8. Please provide a list of the names of all individuals who have been retained as consultants by NLADA under projects funded by Corporation grants or contracts, an explanation of the services provided by each individual and the cost, if any, of these services?

Response

NLADA has a practice of providing this information only to the funding source. This information was provided to LSC during its monitoring visit.

9. Under projects funded by the Corporation monies awarded to the Association, has NLADA commissioned studies of legal services activities or funded Association involvement in legal services activities outside the continental United States? If so, please explain what has been funded and the cost of each funded activity.

Response

Pursuant to the Legal Services Corporation Act, LSC funds programs that provide legal services in all fifty states, as well as United States territories and possessions. A search of NLADA's project records indicates that NLADA projects funded by LSC provided the following assistance to programs outside the continental United States:

a. Legal Services of the Virgin Islands -- development of strategic planning to meet program's goals and priorities (1982) -- $6,853.43.

b. Access to Justice Project -- workshop at 1980 NLADA Conference in San Juan, Puerto Rico, on access issues; staff travel and per diem only (1980) -- $1,578.

c. Micronesian Legal Services Corporation, Guam Legal Services Corporation and The Legal Aid Society of Hawaii -- training of program paralegals in Honolulu, Hawaii (1983) -- $7,742.47.

d. Puerto Rico Legal Services -- technical assistance on labor/management issues provided by Leadership Project; staff and consultant travel and per diem only (1982 and 1983) -- $1,552.73.

e. Alaska Legal Services -- training for program managers (1983) -- $1,313.37.

In addition, the Management Project and the Private Bar Delivery Project responded to many inquiries or requests for information from legal services programs or bar associations located in states, territories and possessions outside the continental United States. Training events, such as regional or national conferences on management issues or private bar involvement issues, were also sponsored by NLADA in which staff members of such programs participated.

The projects funded by LSC commissioned no studies of legal services activities outside the continental United States.

10. Has NLADA provided either direct or indirect assistance to the Coalition for Legal Services since the Coalition's inception in 1981? If so, please explain the nature and amount of that assistance.

Response

From 1981 through 1983, NLADA donated space and services and made cash contributions to the Coalition for Legal Services, Inc. The amount of direct and indirect assistance in any given year during that period did not exceed $25,000, none of which involved LSC grant funds.

11. What is the amount that NLADA received in dues in 1980, 1981, 1982 and 1983 from recipients or grantees of the Legal Services Corporation?

Response

NLADA does not maintain records that allow it easy access to the requested information. NLADA members pay dues according to the following categories: civil, defender, associate and individual members. LSC recipients and grantees are part of the civil and associate members category. The following schedule sets out the amount of dues received by NLADA from its civil and associate members in 1980, 1981, 1982 and 1983.

1980 - $396,077
1981 - $357,360
1982 - $350,523
1983 - $424,893

NLADA has no way of knowing what, if any, portion of the dues paid by any of its civil and associate members is derived from LSC funds.

12. What percentage of NLADA's budget was comprised of funds received from the Corporation or its grantees and recipients in 1980, 1981, 1982 and 1983?

Response

NLADA maintains separate budgets and accounts for special grant funds and internal operating expenses. NLADA's audited financial statements (enclosed in response to Question 2) show expenditures of LSC grant funds for 1980 through 1983. Internal operating expenses incurred by NLADA for each of the years 1980 through 1983 were as follows:

1980 - $1,044,500
1981 - $1,253,461
1982 - $1,336,345
1983 - $1,253,327

Included in the internal operating expenditure amounts shown above are dues paid by members, including those paid by civil and associate program members. See the response to Question 11.

13. What portion of the monies received by NLADA in 1980, 1981, 1982 and 1983 from grantees or recipients of the Legal Services Corporation were spent on the cost of paying insurance premiums for program lawyers?

Response

None. Insurance premiums are not paid to NLADA, but are paid directly to the insurance broker.

14. Has NLADA received funds from or awarded funds to the Western Center on Law and Poverty? If so, please explain the nature and purpose of the funding relationship and the amount of funds involved.

Response

Based on a review of NLADA's records, NLADA does not have nor has it had any funding relationship with the Western Center on Law and Poverty.

Yours very truly,

Benjamin Lerner

Benjamin Lerner
President

Attachments

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May 15, 1984

Gene Potack
Acting Director
Office of Field Services
Legal Services Corporation
733 Fifteenth Street, N.W.
Washington, D.C. 20005

Dear Mr. Potack:

I have enclosed the materials that I indicated would be sent in my May 4, 1984 letter. With respect to the specific materials you requested in your letter of February 27th, please note the following:

1. As the Corporation was previously informed, the policy input into the Leadership Program encompassed review by the Civil Committee and informal working groups consulted by the Project. Enclosed are relevant portions of the minutes of those groups.

2. Rather than sending you every contract, as indicated in your seventh request, we have assembled them in one room to facilitate review by your monitors upon arrival. The summary of each contract, prepared pursuant to request #8 of your letter, should be sufficient to prepare for the monitoring visit.

We are also including a paper entitled "LSC Projects Report." This paper constitutes the annual report for the Leadership, Standards and Private Bar Projects, as well as the quarterly report for the Management and Library Project.

I have coordinated the schedules of the staff for the LSC-funded projects and the accounting staff to ensure their availability during the monitoring visit. I look forward to meeting the members of the monitoring team and discussing the procedures that will aid both our staff and the monitoring team in compiling the information they need to monitor the LSC fund-related activities adequately.

Sincerely,

Clint Lyons
Clint Lyons
Executive Director

Enclosures: as stated

CL/mlw

NATIONAL LEGAL
AID & DEFENDER
ASSOCIATION

1625 K STREET, N.W.
EIGHTH FLOOR
WASH., D.C. 20006
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LSC PROJECTS REPORT

BACKGROUND

The National Legal Aid and Defender Association (NLADA) was founded in 1911 by members of the private bar concerned about the delivery of legal services to poor persons. Since 1911, NLADA has grown to be a coalition of groups including the private bar, persons eligible to receive legal services, public defenders, and attorneys providing civil legal services. NLADA is a 501(c)(3) non-profit corporation incorporated in the District of Columbia. The Association is managed by a Board of Directors of 21 people, elected and appointed by its members.

Since its inception, the National Legal Aid and Defender Association has provided technical and management assistance to those organizations and persons providing legal services to the poor. During the period from 1911 through 1960, members of NLADA provided hands-on assistance to those traditional legal aid offices which were established throughout the United States. As a result of our assistance legal aid offices were established in virtually every city in the United States with a population of over 250,000.

Since the advent of federal funding to civil legal aid offices through the Office of Economic Opportunity (OEO), and the availability of funding on a national level to public defenders through the Law Enforcement Assistance Administration, NLADA has played a primary role in the delivery of technical and management assistance to offices providing services throughout the United States. In 1971, NLADA received a $1.2 million grant for the Management Assistance Project from the Office of Economic Opportunity which included training in such areas as program planning, fund raising, program evaluation, training, director orientation, fiscal and personnel management, community organizations, bar and board relations, and caseload and operating standards. Through that grant and its successors, which ended in 1976, NLADA was able to play a vital role in the initial development of federally funded legal services through evaluation, training, and the development of appropriate material to be utilized by the legal services community as a whole. In the early 1970's NLADA also developed a set of standards for the provision of civil legal services.

In the area of public defender management and technical assistance, NLADA has been a leader for more than a decade in the development of national standards for legal services in criminal cases. We have provided broad-based technical assistance for the National Center for Defense Management, the Defender Management Information System Project, and the Appellate Defender Development Project. NLADA has contracted with a significant number of jurisdictions to provide technical assistance, including the District of Columbia and the states of Michigan, Alabama, Ohio, and Washington, as well as the cities of Seattle and Takoma, Washington; and Dallas, Texas.

Currently, NLADA continues its advocacy efforts in support of quality legal services for the poor in addition to its training, management and technical assistance. These efforts are carefully monitored internally to ensure compliance with statutory and Internal Revenue Service regulation of non-profit activity in the area of legislative representation.

NLADA has had a long standing working relationship with federal agencies, federally funded organizations, private foundations, and other private sector organizations that are seeking improvement in the quality of the justice system in America, with emphasis on delivery of legal services to the poor. Currently, we are completing work on grants made by LSC in 1981.

In 1981 two factors came together to influence the award of two grants to the Association from the Corporation totalling $1,940,000. First, NLADA had demonstrated broad and long-standing experience in the area of management and technical assistance and had been seeking grants for that purpose from LSC over a period of two years beginning in 1978. Second, in 1981 LSC received a 25% reduction in its appropriation and reduced its operational expenses by 50%. The decision was made by LSC to cut out an entire training division and to contract out and decentralize the training functions previously performed inhouse. NLADA was the natural repository of some of the training functions because of its history and unique national experience in this area. As an independent contractor, NLADA assumed responsibility for using grant funds, in the face of massive change, to assist programs in maintaining and improving their capacity to deliver high quality legal services. The common purposes of the grants were to ensure the continuation of a capacity in the national program to meet changing needs and problems through training and to promote an efficient advancement in the quality of legal services provided to poor persons.

In 1981, LSC decided to fund NLADA to continue a portion of the national training program. A grant was made to NLADA in two awards, one for $1,235,000 on September 28, 1981, and the other for $705,000 on December 10, 1981. Five special projects were funded by the grants.

A.	Management Development and Technical Assistance	$1,200,000
B.	Training and Technical Assistance on Private Bar Delivery	$ 140,000
C.	Standards Development	$ 80,000
D.	Library Manual for Legal Services Programs	$ 20,000
E.	Leadership Development	$ 500,000
	Total	$1,940,000

It was understood by both the grantor and the grantee that the special projects would be implemented in a turbulent, unfolding environment, a legal services world buffeted by controversy and apprehension about the future. A steep reduction in funding had closely followed the unprecedented funding increases of the late 1970's and early 1980's. The keynotes of retrenchment -- staff reductions, office closings, a struggle to maintain services -- paralleled fundamental changes in public benefit law and some confusion and obscurity with respect to the appropriateness of certain forms of client-representational endeavors. Immediate, short term issues dominated the attention of legal services programs for obvious reasons. The Management Project and the Private Bar Project focused on those short run issues while the Standards and Leadership Projects were to focus on long-term systemic issues.

MANAGEMENT PROJECT

The Management Project provides management training and technical assistance to LSC grantees in such areas as office and personnel management, planned management responses to changes in funding, private bar relations, client participation, evaluation and assessment, office structure and efficiency, and management of legal work.

The Managment Project has shaped its specific activities to meet the manifested needs of deliverers and consumers. In planning its activities, the Managment Project has taken into account the activities of the Regional Training Centers as well as the resources and activities of other NLADA Special Projects. Field programs in 1981 and 1982, experienced "management trauma" as a consequence of retrenchment and institutional insecurity. To address the array of needs presented, the Managment Project developed and distributed materials on such topics as planning and budgeting and assisted field programs in evaluating their structures, staffing patterns, and fiscal operations. In addition, the Management Project provided local and regional supervisory skills training and provided technical assistance in improving supervisory systems.

As the work of the Management Project progressed, patterns of need emerged with greater clarity. As a result, the Managment Project was able to increase the pace and impact of its activities. Publications advising managers on such items as high quality representation, productivity, project-leader selection, state support resources and configurations, and compliance with ever-growing and intricate LSC regulations were provided to programs nationwide. The Management Project has developed a library of materials utilized both by programs and other NLADA Special Projects. It has drawn extensively on the teachings of the Standards Project and reinforced those teachings by recommendations and guides facilitating their practical effectiveness for managers.

Since its initial funding, the Management Project has accomplished the following:

- o Developed and conducted training sessions designed to meet the specific needs of managers in a particular project or region including over 75 training workshops and conferences for approximately 2,000 individuals in every state in the country.

- o Identified individuals and teams with the expertise needed to provide technical assistance to individual programs. It has responded to requests for technical assistance from legal services field programs, state support centers, bar associations, and Regional Offices of LSC by over 100 on-site consultations plus hundreds of telephones and mail contacts..

- o Established a Materials Resource Center which has prepared 16 major training manuals and resource guides. Distributed over 7,000 copies of its publications to the legal services community. In addition, the Management Project has cosponsored four major manuals with the Regional Training Centers. The Library Grant from LSC has been used to partially finance these efforts.

- o Maintained for program use a library of video tapes in areas relevant to management and substantive law. The Library Grant funded much of this activity.

PRIVATE BAR PROJECT

NLADA was awarded a grant by LSC to facilitate the involvement of private attorneys in the delivery of legal services. NLADA's sub-grantee, the Volunteer Lawyers Project (VLP) of the Boston Bar Association, has provided training and technical assistance to legal services programs and others seeking to implement the Legal Services Corporation's Instruction on private attorney involvement. Technical assistance was essential in ensuring effective and timely compliance with the Instruction for the following reasons: (1) with the cutbacks in program funding and reductions in staff, limited local resources would be available for any new initiative; (2) significant program experience existed concerning the development and implementation of successful pro bono and compensated private attorney involvement programs—experience which could be communicated to the field through publications and individual technical assistance, enabling field programs to benefit from the core of learning in this area, rather than proceeding by trial and error; (3) the existence of some field resistance to the private attorney involvement initiative required early, demonstrated success in implementing PAI among a number of programs; and (4) the expansion of private attorney involvement to all LSC grantees would undoubtedly lead to new designs, trends and initiatives, which could best be analyzed and implemented consistent with a goal of high quality representation, through a national technical assistance effort. VLP's training and technical assistance efforts consisted of the following:

- o VLP worked closely with the Private Bar Involvement Unit of the American Bar Association and other ABA entities in developing training progams and responding to technical assistance requests.

- o Under the aegis of the Legal Services Corporation, VLP sponsored three private attorney involvement workshops for legal services project directors, staff, and clients in February and March, 1982. These training events, presented in conjunction with ABA leadership conferences on the same topic, provided assistance to more than 400 persons in areas such as model selection and design, bar relations, quality control, etc.

- o The Project, in conjunction with the ABA and LSC, sponsored a training conference for state and local bar leaders, program directors and staff and clients in January, 1983, to provide assistance in program design, implementation and evaluation.

- o The Project, in addition to sponsoring its own training events, has assisted in the design of conferences sponsored by other groups.

- The VLP has responded to approximately 400 individual requests for assistance.

- VLP maintains a comprehensive library of all papers relating to private attorney involvement, including a wide variety of program brochures, sample contrcts, etc.

- The Project has commissioned and distributed papers on a variety of subjects including: statewide pro bono projects, training for private attorneys, PAI as a successful component of field programs, rural delivery, accounting procedures, program self-assessment, and mixed systems and four major articles were contributed to the Clearinghouse Review.

- VLP has also provided materials, support and editorial assistance for materials produced by other groups, such as The Resource: A Pro Bono Manual, the ABA's directory of private bar programs, the PBI Activation Exchange, and ABA materials on lawyers referral systems and training.

STANDARDS DEVELOPMENT PROJECT

The Standards Development grant was made to NLADA to ensure the completion of a project that was begun by LSC in 1980. The goal of the project is to develop objective standards of performance for civil legal services providers. The project brought together members of the legal services community, clients, legal services lawyers and paralegals, representatives of various other groups, and private bar lawyers to discuss and draft a set of for the operation of legal services programs.

The broadly based process through which the Standards were developed garnered input from every segment of the legal services community. It is the most carefully developed and authoritative statement of measurable, qualitative standards for the delivery of legal services. It enveloped a functional analysis of the lawyering process and establishes some norms and values for legal work undertaken in behalf of poor persons. It forms the background against which the high quality representation activities of the Managment Project will be measured. Its review process, a process which contemplates adoption by the American Bar Association (ABA), the National Bar Association (NBA), National Hispanic Bar Association (NHBA), National Conference of Black Lawyers (NCBL), NLADA, and other legal groups, serves as a bridge connecting private attorneys and staff attorneys.

The Standards Project has:

- Written, published, and distributed for comment updated Standards to Corporation grantees, pro bono projects, appropriate Standing Committees, Sections of the ABA and NBA, and other committees of the organized bar at national and state levels.

- Coordinated activities to ensure receipt of comments on the Standards from leaders of diverse client organizations.

- Presented the Standards to the legal community at a variety of national and regional meetings.

- Analyzed comments and published a revised draft which is being distributed for endorsement by major national organizations in the legal services and client communities.

THE LIBRARY MANUAL FOR LEGAL SERVICES PROGRAMS

The project was designed to prepare and distribute a library manual for legal services programs which would serve as an instructional tool for individuals or for operating legal services libraries of any size or structure. The Project, with the permission of LSC, was integrated into the Management Project and became a part of its resource development center and distribution system which is described under the Management Project.

LEADERSHIP DEVELOPMENT

The Leadership Development Project has four phases:

1. study and initial conceptualization;
2. planning for implementation (curriculum development);
3. implementation and evaluation; and
4. planning for future activities.

Since the inception of LSC, discussions had been held within the legal services community regarding the need for strong leadership qualities in persons who, as a result of the expansion of legal services, would be heading million dollar law firms and managing large numbers of people. It was thought that these persons would need all of the technical, interpersonal, and conceptual skills that training and development could muster in order to work successfully in an environment that brought clients, the private bar, and other community institutions in touch with each other, hopefully in harmony, but sometimes in adversarial settings. NLADA was a leader in these discussions. It saw a need to train leaders and perceived a need to develop new leaders to meet the continuing challenges that legal services programs had experienced and would continue to experience, in the form of expansion, retrenchment and controversy. NLADA applied for and received a grant from LSC to develoo a leadership program that would address these needs.

Careful thought and observation have been required to ensure the effectiveness of the project. At the onset of the project, the legal services world existed in an unstable environment in which events focused the attention of legal services programs on immediate, short term issues. The Leadership Project was a novel, innovative, interdisciplinary undertaking, involving a mix of social science, management, and legal concepts. Because it was new, some segments of the legal services community were unclear about its goals and about the utility of trying to teach leadership. Consequently, there were questions about a developmental project in the face of other competing needs. Therefore, one of the first objectives of the Project was to clarify the purposes and goals of the project and persuade the community of the value in enhancing leadership capability and potential through training and development. Moreover, the Leadership Project was destined to fail if it merely taught abstractions. To be successful it had to take the measure of the environment in which leaders lived and it had to survey leadership issues, interests, needs, and appraise alternative courses of action before formulating final plans.

Phase one included the preparation of a major work by Joan Lieberman, entitled, Leadership in Legal Services. The report was a research document prepared following discussions with over a hundred persons. Included were distinguished academicians in the fields of law, business, and the social sciences; directors of non-profit organizations not connected to the legal community; LSC staff; legal services program directors; eligible clients; and, national bar associations. Many of these persons expressed their own views on leadership. Although many of the comments were set forth in the report, none were categorically endorsed by NLADA. The report was widely circulated and as the reactions it generated were carefully noted, issues were focused and discussions were developed.

Unforeseen personnel changes and requirements of transition played a subtantial part in delaying the planning and implementation phases. For example, Joan Lieberman, for health reasons, had to withdraw from participation in the Project's activities. Her withdrawal required a search for a successor, a person with a multidisciplinary background, an established reputation in the legal services community and a rare, specific set of skills. In addition, there was a change of the directorship of the Civil Division, the NLADA unit with principal responsibility for the project. During this period of transition, NLADA decided to use Leadership Project resources to fund a Minority Bar Leadership Project that NLADA had previously designed because one focus of the Leadership Project was the development of minority leaders.

1983 brought a significant amount of increased activity in the Leadership Project. By that time the Standards Project had progressed through two drafts of the Standards and the Management Project had helped to identify some significant environmental patterns. Moreover, in 1983, the legal services community was more receptive to long-term planning. The learnings from these two projects were instrumental in influencing the direction of the Leadership Project. Through the use of workgroups and a questionnaire, concepts were amplified, and a masterplan with more refined goals of the Project was adopted.

The Leadership Development Project has:

- Published and distributed for comment, Leadership in Legal Services, a report on the state of the art of leadership within legal services; an analysis of the forces which impact upon the various leadership styles; proposed short and long-term methods which could be used to ensure on-going development of leaders in the legal services communities.
- Prepared other written materials including a monograph on leadership concepts, and training materials for Management and Leadership Strategies for Minority Managers and Leadership Effectiveness Workshops.
- Analyzed the comments of academics, service providers, social science practioners, and members of the client community and conducted seven developmental workgroup sessions..

- Used the respondents comments, the expertise of the Management Project and the criteria established in the Standards to design a curriculum for workshops and the structure for a long-term Leadership Institute.
- Conducted ten workshops with more than 400 participants to foster leadership among minorities involved in legal services progams, whether on the local board or directly involved in service delivery.
- Analyzed particular skill needs of clients currently or potentially involved in leadership positions in the legal services community.
- Designed and implemented workshops in skills related to leadership such as planning, values clarification, conflict resolution, and communications.
- Established an advisory body to develop criteria for "faculty" and participants in the Leadership Institute.

SPECIAL PROJECTS: THE FINAL STAGES

With concordant purposes and complementary specific objectives, the plans and activities of the Special Projects have intersected and each of the Special Projects has benefited from the practical learnings provided by the other projects. The aggregate achievement of the Special Projects will substantially exceed what would have constituted the sum of such projects if they had been separately planned and implemented without intersection and coordination at some point of time.

A. LEADERSHIP DEVELOPMENT PROJECT

1. Workshop Activity. Workshops in leadership effectiveness, conflict resolution, and values clarification will be held in 1984. The workshops will be designed to have immediate value for leaders and managers. They will also, however, be calculated to identify and provide special training to a subgroup of participants enabling that subgroup to in turn communicate and teach the skills that they have learned. Our intent is to thereby extend the benefits of the Leadership Project even where direct contact between project staff and individuals and groups is impractical.

   Leadership effectiveness workshops will help potential leaders distinguish the characteristics, styles, and effectiveness of leaders and leadership skills. Leadership issues endemic to the involvement of private attorneys and, the implementation of the Standards within the context of the concept of high quality representation will serve along with other practical issues as "case" materials. Conflict resolution workshops will draw especially on the rich historic materials of the past four years and will assist participants in learning how to effectively manage the multiple forces of conflict in change-oriented situations. The values clarification workshops will enhance participants' understanding of the role that beliefs and values play in shaping the mission, goals, and operations of human enterprises; present models and test processes that can be used by leaders to identify, examine and clarify the beliefs and values that influence their organizations; help harmonize individual and organizational values and community and implement core beliefs through the conscious choice of goals and programmatic strategies and explore implications for the performance of staff and the organization as a whole.

2. Leadership Institute. The Leadership Institute will be a 12 -14 day residential program that brings together established and emerging leaders from all segments of the legal services community and from other community organizations concerned with the quality of the justice system in America as it impacts on the legal rights of the poor. One quarter of the participants will be private attorneys and other persons with relevant interdisciplinary background. The Leadership Development Institute training curriculum will be tested to ensure scrupulous compliance with LSC Act and Regulations. The initial session of the Institute is scheduled for late 1984 following completion of the workshops.

The Institute is calculated to:

- help participants understand the nature of leadership processes and to raise their level of awareness about the value of and need for different types of leadership;
- enhance participants' understanding of the economic, social, cultural and organizational trends in the U.S., so that they can develop a total appreciation for diversity of thought, as well as the current and expected impact of these trends on the legal rights of the chronically and newly poor, and how these present leadership challenges to the community.
- increase participants' understanding of the philosophical and operational issues faced by the poverty law community and engender discussion of new ways of perceiving and responding to these constraints and opportunities. Both the experience and contribution of the Standards Project and the Managment Project will help enormously.
- help participants become aware of the pattern of philosophies, beliefs, attitudes, values, feelings, and assumptions that influence their choice of behaviors/personal style in leadership roles;
- assist participants to expand their repertoire of effective leadership behaviors;
- enhance their understanding of human behavior in temporary and permanent organizations;
- increase participants' capacity to learn from their own and other's experiences; and
- build community esprit de corps that will encourage collaboration and cooperation among participants following the Institute

There will be a faculty that will act as a resource to the participants on special issues. Participants will be sent preparatory materials prepared or coordinated by NLADA staff prior to their actual arrival at the Institute. These materials will include monographs commissioned by the Leadership Project. The design committee for the Institute will be a joint committee of members from the legal services community and appropriate members of the community at large. Some law schools, and other interdisplinary groups, will be contacted and asked to participate in the design and implementation of the Institute. A central component of the training will take participants through several leadership conceptual presentation skills training components. In addition, the leaders will be involved in simulation exercises where there will be an opportunity to demonstrate leadership skills in the face of real world problems. One hundred and thirty thousand dollars have been budgeted to support the Leadership Development Institute activities.

3.. Participants in Workshops and Institute. NLADA will ensure that participants in the Leadership Project's workshops and the Institute represent a cross section of persons from the client and legal communities, including, of course, attorneys from the private sector. While the Private Bar Project activities will assist in identifying specific individual participants (as it has influenced the development of the Institute's curriculum) applications serving as data gathering instruments will be circulated throughout the community. Efforts will be made to select regional groups that are diverse in regard to race, age, gender, and diverse in experiences and roles within legal services. In selecting participants, consideration will be given to willingness to accept leadership responsibility, including 1) working beyond one's immediate group or organization, 2) past experience with leadership, and 3) interest in participating in a group learning experience to explore conceptual and practical issues in leadership.

It is anticipated that a select few of the participants based upon their demonstrated capability will be prepared to function as local discussion group leaders as described previously. In addition, workshop leaders will be charged with the responsibility of identifying persons who abilities and situations would indicate that participation in one or both of the other workshop areas would be of value. This process will foster the development of future faculty for the Institute.

B. THE MANAGEMENT PROJECT

In 1984, the Management Project will provide training and technical assistance in an effort to promote high quality representation consistent with the performance criterial articulated in the Standards document. The Project will also convene training sessions and discussion groups as vehicles for that goal. Appropriate monographs will be produced and disseminated. The major part of the delivery of this effort will complement and flow into the Leadership Project. That integrated effort has been planned for a number of months.

C. THE STANDARDS PROJECT

The Standards document was developed during the period when the entire legal community was reassessing the norms of professional behavior. That effort culminated in the adoption of the Model Rules of Professional Conduct which in term has necessitated a review by appropriate authorities at the state and local levels.

The Standards Project will review and if necessary modify, the Standards document against the Model Rules. Further, the project will seek to achieve the integration of the Standards into the newly developing state and local rules.

D. SPECIAL PROJECTS - 1985

In 1985, NLADA will continue to pursue a flexible and integrated strategy in offering additional support to the civil community through continued implementation of the Special Projects. The core Civil Division staff will carry forward the goals for the Special Projects as an integral part of the division's operations. The Division will have the accomplishments of 1984 and its ongoing communication with the community to build upon in fashioning the most appropriate specific programmatic agenda. Specific budgets and plans will be considered and adopted by NLADA in December, 1984.

Attachment # 2

ANNUAL REPORT
OCTOBER 1, 1981 - SEPTEMBER 30, 1982

LEADERSHIP PROJECT

NATIONAL LEGAL AID & DEFENDER ASSOCIATION

1625 K Street, N.W.
Eighth Floor
Washington, D.C. 20006

BACKGROUND

On September 15, 1981, the Executive Director of the National Legal Aid & Defender Association submitted to the Legal Services Corporation a request for funding for various projects, including a request to establish and coordinate a Leadership Development Project within the Legal Services community. The funds were awarded to NLADA on September 28, 1981 as a one-time grant with the expectation that the funds would last throughout at least 1982 and 1983, and potentially into part of 1984.

The grant was awarded to the Association during a period of change in which it was recognized that additional leadership and new types of leadership would be required in the Legal Services community. There were varying opinions among personnel of the Corporation, NLADA, and others within the field as to exactly the form the Leadership Project would take and how this new leadership could be developed as efficiently and effectively as possible.

The initial determination made by NLADA, in conjunction with the staff of the Legal Services Corporation, was to retain Joan C. Lieberman, a well-known management consultant in Boulder, Colorado, to do a detailed evaluation of the options and alternatives which were available for a Leadership Project within the Legal Services community. This work was undertaken by Ms. Lieberman--extensive field interviews, analysis, and study--from approximately November 1, 1981 through June 30, 1982.

Ms. Lieberman made an extensive study of those persons identified as either leaders within the Legal Services community presently, persons who had knowledge of the Legal Services community, or those who had general familiarity with concepts of leadership. The following is a list of persons interviewed by Ms. Lieberman during this process:

Legal Services Organizations

National Organizations

Advocates for Legal Services

Ann MacCrory

American Bar Association

Peter Bonovich, Director of Legal Services

Back-Up Centers

Jack Anderson, Staff Attorney, National Economic Development and Law Project
David Kilpatrick, Deputy Director, National Economic Development and Law Project
Sylvia Drew Ivie, Director, National Health Law Program
Robert Sable, Director, National Consumer Law Center

Coalition for Legal Services

Carolyn Stuart

Legal Services Corporation

Bucky Askew, Deputy Director, Office of Field Services
Dan Bradley, President
Theron O'Conner, Associate Director for Resources and Support
Victor Geminiani, Regional Director, Atlanta Regional Office
Alan W. Houseman, Director, Research Institute on Legal Assistance
Beatrice Moulton, Director, Office of Program Support
Paul Newman, Regional Director, Boston Regional Office
Marttie Thompson, Regional Director, Philadelphia Regional Office
Salvador Tio, Regional Director, New York Regional Office

National Bar Association

Annette Hubbard, President

National Organization of Legal Workers

Jim Braude, President, NOLW
Regina Little, staff, NOLW

National Legal Aid and Defender Association*

Howard Eisenberg, Executive Director
Julius Menshah, Director, Civil Division
Cheryl Porte, Civil Division
Jack Schmerling, Deputy Director, Defender Division
Rick Wilson, Director, Defender Division

Individual Leaders and Followers by Region

Region I - Boston

Cling Bamberger, Legal Services Institute, Massachusetts
Gary Bellow, Director, Legal Services Institute, Massachusetts
*John Brooks, Peabody & Arnold, Massachusetts
John Dooley, Consultant, Vermont
Esther F. Lardent, Director, Volunteer Lawyers Project, Massachusetts
Hal Lieberman, Executive Director, Central Massachusetts Legal Services, Massachusetts
William J. McNally, Director, Greater Boston Legal Services

Alan Rogers, Director, Massachusetts Institute of Reform
*Bob Spangenberg, Abt Associates, Massachusetts

Region III - Philadelphia

Sara Ann Detterman, Special Committee on Public Interest Practices, Hogan & Hartson
Tom Erhlich, Provost, University of Pennsylvania
Charles Halpern, Professor of Law, Georgetown University School of Law, Washington, D.C.
*William Klaus, Pepper, Hamilton & Scheetz, Philadelphia

Region II - New York

*Archibald Murray, Director, Legal Aid Society of New York City
*Seth Rossner, private practice

Region IV - Northern Virginia

Staughton Lynd, Staff Attorney, Northeast Ohio Legal Services

Region V - Chicago

John C. Barrett, Director, Legal Services Corp. of Iowa

Region VI - Atlanta

*John L. Cromartie, Jr., Director, Georgia Legal Services
Rick Ebbinghouse, Staff Attorney, Legal Services Corp. of Alabama
Spencer Gilbert
Cynthia A. Metzler, Director, Florida Rural Legal Services
John A. Powell, Director, Legal Services of Greater Miami, Inc.

Region VII - Denver

Jon Asher, Director, Legal Aid Society of Metropolitan Denver
Alan C. Friedberg, Pendleton & Sabian, Denver
Bruce R. Greene, Greene and Meyers, Attorneys (former Director of CILS and Indian Law BUC), Boulder
Don Hoagland, Davis, Graham & Stubbs, Denver
Luis Jarimillo, Executive Director, El Paso Legal Assistance Society

Jim Keenan, Vice President for General Semicondoctor, Inc. (former Project Director of CLS in Phoenix)
Murray Richtel, District Court Judge, Boulder
Helen Stone, Skaggs, Stone & Sheehy, Boulder

Region VIII - San Francisco

Ralph Abascal, Director of Litigation, CRLA, San Francisco
Micky Bennett, Statewide Coordinator, San Francisco
Barbara Creed, Pillsbury, Madison & Sutro, San Francisco
Joanne Garvey, Jordan, Keeler & Seligman, San Francisco
Anthony Klein, Superior Court Judge, San Francisco
Jim Lorenz, author and activist, Oakland
Robert D. Raven, Morrison & Foerster, San Francisco
Ray Schonholtz, Director, Community Board Program, San Francisco
Jayne Tyrell, Director Volunteer Lawyers Program, San Francisco

Region IX - Seattle

Bob Atkinson, Program Director, Marion-Polk Legal Aid Service, Salem
Greg Dallaire, Director, Evergreen Legal Services, Seattle
Steve Lowenstein, Director, Oregon Legal Services, Portland

* Board members listed by Regions (present and former)

Resource Institutions

Aspen Institute

Alice H. Henkin, Associate Director, New York City
Robert McKay, Director of Program on Society and Justice, New York, City
Stephen P. Strickland, Vice President, Washington, D.C.

Boalt School of Law, University of California at Berkeley

Herma Hill Kay, Professor of Law
Harry Scheiber, Professor of Law

Boston University

Frances Cox Piven, Professor of Political Science

Center for Law and Human Values

Gary J. Friedman, Mediation Specialist, Mill Valley, California

Center for Leadership Studies, Ohio University

John Stinson, Director

Columbia School of Law

Jack Himmelstein, Professor of Law

Ford Foundation

Susan Beresford, Program Officer, New York City

Georgetown University Law Center

Norman Birnbaum, Professor of Law, Washington, D.C.

Harvard Law School

Roger Fisher, Professor of Law; Director of Harvard Negotiation Project
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LEADERSHIP ALTERNATIVES

Based on interviews with these people, Ms. Lieberman developed a major work entitled "Leadership in Legal Services" made available to the Executive Director of NLADA in draft form in May, 1982, and in more final form in June, 1982. (This document has previously been submitted to L.S.C. staff.) This work outlined the major approaches and description of the types of strategic intervention which were recommended by persons within the Legal Services community.

The major approaches and description of the type of strategic interventions linked to each are described below.

I. Strengthen Leadership Capacity

Strategic interventions could occur at the national, state, or local level. They could apply to minorities, program leaders, bar leaders, or leaders in the client community. They could be directed toward strengthening the capacity of political leaders, substantive leaders, managerial leaders, or support leaders. Each would be helped to develop new ideas and skills which would facilitate adaptation of changes in their leadership tasks.

II. Facilitate Maximum Adaptations to the "New Situation"

Appropriate strategies would be designed to help leaders and their constituencies make the fullest use of the remaining available space, to develop new delivery mechanisms, and to find new ways of working particularly in the areas which are likely to be blocked by LSC legislation or regulation.

III. Reduce Stereotyping and Insularity

Work on this goal would require interventions which would work across a variety of relationship boundaries, for example, between the ABA and NLADA, between programs and clients, between the private sector and the poor, or between programs and local bars. Each would be designed to increase mutual understanding and collaboration.

IV. Strengthen the Existing Infrastructure

Strategies for this goal might include interventions targeted at law schools and the recruitment of graduating law students, others at preserving and maintaining existing staff through fellowships and sabbaticals, providing training in the issues of new federalism, helping to solidify the political posture and the ideological glue of the system, and generally seeking ways to reduce the stress on advocates at all levels of experience.

The type of strategies for each of the four approaches most frequently mentioned by those individuals interviewed are briefly described below.

I. STRENGTHEN LEADERSHIP CAPACITY

1. Certification of Managers

An effort to begin a certification process for legal services managers assumes the legal services system will survive the current crisis and will eventually emerge as a strong and permanent part of the judicial system. The historical undervaluing of management and management development will hamper this development. To ensure that it is not sacrificed further during the current crisis, NLADA should create a certification program for legal services managers. The certification program would include the identification of the essential skills required to manage a legal services program. (Some of this work has already been done by LSC's former Management Development and Assistance Unit.) These skills would then be incorporated in a training program which would be offered several times a year. The training program might be informally required for all individuals accepting management responsibilities within programs. In conjunction with completion of the training, follow-up audits would be done by the training staff to certify that managers' day-to-day performances were meeting the standards of the program. Ideologically this is a neutral strategy which has a long-term focus and time frame. Realistically this work should be undertaken by the new NLADA Management Project, headed by Wayne Pressel, and the merger of the two efforts could increase the pool of resources available to each.

2. Leadership Academy/Institute

The absence of rewards and status for legal services leaders has limited the pool of individuals willing to undertake these roles. The creation of a national leadership institute should provide both the support and rewards for individuals willing to assume leadership roles within the system. The institute or academy would be staffed by a small pool of experts who could draw on other resources as needed. Individual legal services leaders would come to the academy or institute for periods of time ranging from a few days to several weeks. They would be engaged in both individual and group study during these periods depending on their needs. In addition, the academy could incorporate site-visits to locations throughout the country where client groups and other particularly effective and innovative programs were operational. Some believe such an institute should have a blue ribbon quality to it and that individuals invited would have to be nominated or recommended for participation in some way. This strategy has a long-term time focus and its ideological orientation would be dependent on the selection of key staff at the Institute and the curricula used. The current resources would be adequate for start-up, but would have to be supplemented by the second or third year.

3. National Organization Intervention

Under conditions of extreme hardship and stress like those facing the legal services community at the present time, the community's chances of survival are enhanced when it has leadership which can maintain its integrity, keep it realistically informed of the situation confronting it, fulfill the expectations of members, is willing to act outside the bounds of stated authority, maintains its commitment and goal direction, and is able to transform members' personal concerns into concerns for achieving community goals. Unfortunately, at the present time none of the organizations which might provide such leadership at the national level are realistically equipped to do so. LSC's staff is hampered by the impending Board and senior staff changes. The Coalition of Legal Services, the National Cl~~ients~~ Council, and the Project Advisory Group all seem to be perceived as over-politicized. NLADA is short-handed and hampered to some degree by past leadership turnover and failures. The ABA is so culturally distinct from the legal services community that its considerable resources are tainted, and the Advocates for Legal Services are organized to mobilize Congress, not the legal services community. Therefore, LDFP monies should be used to strategically strengthen the capacity of one or more of the existing national leadership groups to provide the kind of unified leadership needed to assist programs and staff across the nation.

It is assumed that no strategic intervention can be made in LSC at the present time because of the impending changes in Board and staff. All of the other organizations might be considered candidates for help. Some possible interventions are briefly described below:

> Coalition for Legal Services--Monies could be used to hire additional staff, some of which could nurture the statewide coordinator network and others who could travel across the country to meet with legal services staff and supporters and provide and mobilize leadership. Some monies should be used for process consultation with the existing Coalition Board in an effort to reduce what appear to be dysfunctional tensions among key members.
>
> Project Advisory Group and National Clients Council--At this juncture it is not clear how additional monies could reduce the over-politicization inherent in NCC and PAG in ways which would also increase their national leadership capabilities, although if a national leadership strategy is adopted, further exploration of the options should occur.
>
> NLADA--As the oldest and most broadly based of all the national leadership organizations, NLADA seems the most likely candidate for the national leadership role. In addition to needing staff on its civil side, it appears that considerable organizational and management development work is needed if NLADA is to perform more effectively. A formal organizational diagnosis, followed by planned improvements and individual leadership consultation for the key staff seems critical.
>
> The American Bar Association--The ABA already has several operating projects which relate to legal services survival and adaptation. Additional monies might be used to increase the capacity of these projects or to develop new ones. A "Special Assistant to the President for Legal Services" might be added to circumvent what some perceive is a cumbersome ABA bureaucracy. Other staff could be used to increase communication and integration between bar leaders and legal services leaders.
>
> Advocates for Legal Services--This group could be strengthened with staff assistance so that their influence could be used at state, foundation, and corporate pressure points--particularly if all federal funding is eliminated in 1983.

The strategy of intervening in national organizations has real risks related to the choice of institutions and the uncertainty of success. On the other hand, there could be major benefits to the entire community if the work goes well. The current resources are more than adequate to support this strategy for several years. It is work which has a short-term focus, with potential long-term payout.

4. Network-Related Intervention

The legal services system is well known for its informal social networks, that is, its patterns of relationships and interaction among persons or programs. These patterns are regular and persistent and, in that sense, lawlike, but they are not governed by formal rules. They lie outside the boundaries of the formal system, of formal regulation, and of formal organization. They are particularly helpful in times of crisis and in many instances can be supported and helped in ways which will strengthen the formal system. Networks depend upon persons who play "network roles." Among these roles are brokerage, referral, mediation, diffusion, facilitation, and evaluation. In addition, some important parts of the legal services network are built on shared beliefs and values, and in these cases the person playing the network role serves as a carrier and promulgator of these beliefs and values. In this sense the survival and vitality of the legal services network is dependent upon the particular persons who play such roles, some of which in the current situation are irreplaceable.

Given the level of uncertainty and the likely co-option of the formal network by a conservative LSC Board and staff, NLADA should use its leadership development monies to support the informal networks which are particularly linked to the central ideologies of the legal services movement. Particular attention might be devoted to working with minority bar groups to strengthen their involvement in legal systems. Support could come in the form of small grants for covering travel costs for assembling the network of advocates in a particular substantive area of law, salary supplements to individuals in key "network roles," and/or for someone facilitating brokering, referrals, etc. The possibilities for network intervention are numerous. The techniques for doing so are described in a paper written by Don A. Schon of the Massachusetts Institute of Technology.

This strategy is perhaps the most culturally and ideologically in tune with the legal services community. It is active, leveraged, and avoids the producer-consumer mentality problem. It could effectively support an informal government in exile and would benefit from self-chosen levels of participation and commitment. The current resources are adequate; the focus is short- to medium-term.

5. Training in Conceptual, Interpersonal, and Technical Skills

Legal services leaders need three kinds of skills: (1) conceptual skills which are needed to recognize the interrelationships of various factors involved at different times and in different settings; (2) interpersonal skills for working with others to be an effective group member and to be able to build cooperative efforts within and between teams; and (3) technical skills needed to accomplish the mechanics of the particular job for which he or she is responsible. At the present time most of the training resources available within the legal services network are for training in interpersonal and technical skills. I could identify no training in conceptual skills. This is not to say that additional training is not needed in the two other areas, only that the largest gap is in the conceptual area.

Conceptual Skills

The absence of conceptual skills among current leaders appears to have hampered organizational development in stable times and has sorely depleted the response to the current crisis. The lack of conceptual skills among lawyers relates primarily to the narrow and highly technical nature of their professional education. Training in conceptual skills needs to be done on the interrelationships of past and current social, economic, and political trends and their impact on poor people; the developmental tasks of legal services organizations as the result of these trends; and the interrelationships between leaders, followers, and clients within the unique professional work settings of legal services programs. LDFP monies should be used to develop curricula in conceptual skills which would be offered to a wide variety of actors within the legal services milieu, but particularly to current and emerging leaders. A number of approaches are possible, among them:

> NLADA could create a special institute similar to that of the National Institute of Humanities and other institute programs which draw on nationally recognized faculty from both universities and the private sector. This institute should be staged on an annual or semi-annual basis. The initial LDFP monies should be used as seed funds. Additional support should be drawn from the American Bar Association Foundation, private foundations, and/or local fellowship sponsors.
>
> NLADA could contract with the Kennedy School of Government at Harvard University to develop a special conceptually-oriented curriculum similar to the one that they offer to senior executives in government.

This program would be offered on an annual basis to selected leaders throughout the country initially on a paid fellowship basis, thereafter NLADA and/or local programs would raise monies to send individual leaders and managers.

Training in Interpersonal and Technical Skills

Legal services managers (including project directors, deputies, managing attorneys, and in some instances board chairpersons) make the critical difference in the success and adaptability of the programs they manage and lead. Past and current resources for training these individuals have been inadequate. Rather than start a separate leadership effort, the LDFP monies should be pooled to strengthen NLADA's new management development project. Among efforts which might be undertaken are:

More Whittle -- Interviews with legal services leaders revealed an unusually high acceptance of work done by Reed Whittle in the last several years. His training workshops and other similarly high quality products should be continued and/or expanded by the NLADA management and development project. Whittle's training focuses primarily on interpersonal and technical skills in ways which are highly applicable to the situations facing legal services managers.

Person-Focused Training -- The impact on the performance and leadership of law professors as a result of the training program offered by the Center for Law and Human Values makes that program an attractive candidate for pilot work for legal services managers. Professors Jack Himmelstein and Howard Lesnick* of Columbia Law School and NYU Law School, respectively, are the key actors in the Center's work. The focus of the Center's work is on the issues of role and identity and value conflicts. This training would be helpful to both managers and substantive leaders in legal services. Becoming a Lawyer, which is the text used in the Center's program, accompanied by a Memorandum Outlining Approach to a Pilot Effort.

Negotiation and Mediation Skills -- Given the current level of stress and the prospect of continuing and ongoing changes in programs, legal services leaders would benefit from training in negotiation and mediation skills. Two likely resources for this approach include Roger Fisher of the Harvard Negotiation Project, and Gary Friedman, who is a specialist in mediation associated with the Center for Law and Human Values. Again, technical skills would benefit both managers and substantive leaders and can be used both within programs and in work on behalf of clients. Fisher's popular techniques are detailed in his book, Getting to Yes.

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* Lesnick will soon join the faculty of the new Queens College of Law which is being headed by Charles Halpern and will focus on the development of public sector lawyers.

Training can be designed to meet a variety of ideological perspectives. It is a traditional intervention strategy in the system which is fraught with memories of failures and considerable poor quality training. The creation of an institute or a contract with a university for one which trains leaders in conceptual skills will be costly and will require additional resources after the first year, but these programs have proven beneficial to leaders in other sectors. The training in interpersonal and technical skills is even more traditional. Carryover on interpersonal skills training is problematic, but less so in technical skills. Both of these approaches could be linked to other NLADA management development efforts in ways which would likely strengthen both. The time frame on these efforts is likely to be medium to long term.

II. FACILITATE MAXIMUM ADAPTATION TO NEW SITUATION

1. Develop Transition Structures

As a result of the new federalism, continuing budget deficits, and rising conservatism among middle-class Americans, there are likely to be spill-over effects on legal services delivery for the poor. This strategy assumes that federal support will be lost or greatly reduced and that state support will be mixed and spotty at best. Because of this, NLADA should not focus on individual leaders and leadership roles, rather NLADA should use the LDFP monies to develop a variety of transition structures which will assist the poor during this period of massive change and crisis. Among the specific strategies it should consider are:

Public Interest Clinics -- Monies might be given to the Center for Law and Social Policy (CLASP) and/or other sources of coordination and support with the mandate that assistance be given to those groups of former legal services-advocates or others in the country who are attempting to set up low-fee or non-profit clinics. Assistance could include networking among innovators, loans for start-up capital, technical assistance, etc.

Poor People's or Public Sector Institutions -- Monies should be given to a variety of poor people's or public sector institutions in the hope that their work can be enhanced and expanded during this difficult period. Included would be groups like Acorn, National Welfare Rights Organization, etc. An additional candidate might be the new Queens College School of Law where key faculty and students could undertake national strategy planning, etc., which could be fed into other movement institutions. Charles Halpern will be the founding dean of the new college which is scheduled to open next year. He critically is interested in a merger between public interest and poverty law.

State Teams -- Another approach would be to follow one of several earlier plans for leadership development prepared by Bucky Askew, Deputy Director of LSC's Office of Field Services, which focused on developing multi-skilled state teams to assist in transition to the new federalism. While some of this work is already under way in states, additional work will be needed--particularly if there is no further federal money.

Alternative Dispute Resolution Projects -- There is considerable need to de-judicialize the legal system because it is too costly, inaccessible, time-consuming, and because it promotes dependency and powerlessness in clients--particularly among the poor. The LDFP monies should be used to accelerate the development of these mechanisms in key locations around the country. This might involve making a grant to an existing organization or group of key actors in this field to develop model legislation for target states and to work with local groups in those states to obtain passage of the legislation; fellowships for key legal services leaders to work with successful alternative dispute resolution projects already in existence in order to return to their own communities and import the best techniques; and/or developing a training program (road show) and coordinated site-visits for legal services and bar leaders from states most likely to adopt alternative dispute mechanisms. This work should be closely linked to the Ford Foundation project on alternative dispute resolution.

All of these techniques have a strong ideological orientation which is the empowerment of power people. The risks are high on some, the focus is long-term, and monies could be stretched too thinly. However, when risks are high, potential gains are great.

2. Improve Private Bar Participation

The private bar has been key to survival this year and will continue to be. NLADA should do whatever it can from its position in the legal services community to enhance the participation of private bar members and to gain their support for civil legal services for the poor. Therefore, the LDFP monies should be used to leverage additional support and participation from the private bar. Among the strategies that might be considered are:

> Private Bar Coordinators -- Bar associations in key states could be given funds for hiring private bar coordinators where they lack monies or there is general resistance.
>
> Innovations in Private Bar Involvement -- NLADA could sponsor programming for bar associations and bar leaders interested in innovations in private bar delivery and involvement in civil legal services for the poor. Particular emphasis might be placed on minority lawyers not involved in other LSC efforts.

This approach is on the right side of the ideological spectrum, could provide an almost immediate increase in services to the poor, and like would subsequently draw local funding support to sustain ongoing work. Thus the focus is both short and long term. Since it overlays with other grants made to LSC to both the ABA and to the Boston Bar Association's Volunteer Lawyer Project, close coordination with both would be essential.

3. Individual Leadership Fellowships

The legal services system is rife with individual, not collective, achievement. This is due to the loosely coupled nature of the system, to the training of lawyers, and to the client-lawyer relationship. Rather than attempt to remake or influence the system as a whole, fellowships should be offered to individuals who have proven or make compelling cases that they have the ability to make a difference within the system. Some of the strategies which might be considered are listed below.

> Fellowships for Minority Women in the Underclass -- The problem of the underclass in America is massive. It is complicated by the feminization of poverty and the fact that two-thirds of the low income households are headed by women. A heroic and risky strategy would be to identify some of the older and more mature women who are providing informal leadership in poverty communities and to support and strengthen their talents.

Assistance would include income supplements to allow them to work with other women who are trying to overcome the problems of the underclass, technical assistance in planning needed changes and developing strategies for managing those changes, and role experiences which might include visiting other communities, working with community leaders, and training.

Community Action Fellowships -- The war against legal services is being waged with a frontal assault by the Reagan administration. Now more than ever community action is needed to win the battle. There are probably only a few individuals who have the skills and the talents of them lack financial support to do this work as individuals and it is work which should not be done within the context of local programs. Individuals in key states could be identified and given fellowships to support their work for the next several years. In some cases these fellowships might be matched by a local organization or might include only expense stipends.

Fellowships for Substantive Innovations -- Many of the tools developed by legal services advocates over the past fifteen years are rapidly disappearing. They are disappearing either through restrictions on LSC grantees or through changes in the entitlement programs and other social services programs for the poor. Now more than ever we need advocates who can "work in new ways." Many of those have already been identified around the country, but they lack both connections to each other and freedom to do innovative work. There are a number of ways in which they could be supported:

(1) Key mentors could be provided fellowship subsidies to work with younger advocates; e.g., Ed Sparer at the University of Pennsylvania School of Law could be given a small subsidy which would allow him to provide individual advice and assistance to advocates working in new ways. The monies could cover Ed's telephone, materials and travel expenses.

(2) Individuals within programs who are creative innovators could be given partial salary stipends which would allow them to work with other advocates in other programs on a part-time basis; and/or

(3) Creative individuals could simply have all of their work supported with a mandate that they work on substantive innovations and that their strategies be disseminated through the legal services system.

Fellowships for Delivery Innovators -- Fellowships for delivery innovators could be handled in much the same way as those for substantive innovators. In some instances, people who were partially good in establishing alternative delivery systems teams could be paid a travel stipend to work in different locations all across the country for periods from one week to three months. Their task would be to find innovative delivery solutions to the problems in those communities and to assist in the implementation of those solutions.

For the most part of these techniques would push this strategy to the left side of the ideological spectrum. They have a mixed time frame--short, medium, and long-term benefits. The monies would not go too far, but with careful selection some individuals undoubtedly would be able to make a real difference in the lives of some of the poor.

4. "Think Pieces," Symposiums, and Conferences

The strategies for solving the current problems can be found--the problem is that people have not had enough time to think, analyze, and plan what new solutions might look like. With the dismantling of LSC's due to cutbacks, slack resources and time for thinking, analyzing and planning are in short supply. Therefore, NLADA should use the LDFP monies to commission a number of papers which could then be considered in both symposiums and conferences all across the country depending on their topic and utility. These think pieces could be produced by people within the system and/or people without the system. Many would argue that the insularity of legal services should be ended and that the resources in the external community should be drawn upon both for the think pieces and for participation in symposium and conferences. Among the specific strategies that might be considered are:

Aspen Institute Sponsored Assemblies -- The Aspen Institute has proposed convening individuals from all sectors of America to consider the problems of legal services for the poor. The Institute is well known for its high quality programs and has agreed that it would be willing to act as a neutral convener for the purpose of finding new solutions to legal services delivery problems. See Exhibit C for a better description of what Bob McKay and Alice Henkin who run the Aspen Institute's Program on Justice and Society would propose.

Peer Conferences -- Many feel that the resources within the community are the ones which should be tapped and that there are no experts either inside or outside legal services. Therefore, peers, leaders, and staff members who have the responsibility for solving the problems presented by the current crisis should be convened in conferences to consider papers and proposals. Some believe this approach should resemble the original Vail Conference held in the late 1960's.

Individual State Conferences -- The problems facing the poor are now being moved to the states. The key problem facing each state is how they will treat the poor. Each state is different and their responses to the New Federalism will also be different. Therefore, maximum adaptation to the new situation has to be planned for at the state level. NLADA should provide conference grants to legal services programs, client groups, and the local bar associations to convene key actors to consider solutions unique to their situation.

Each of these interventions is meant for the long term, but would need to be undertaken sooner rather than later if they are to affect the future. They are high risk in the sense that legal services follow through and carryover from efforts has not been good. It also would be difficult to track any impact in the system from this type of intervention. At the same time the strategy is part of the culture and could offer an opportunity to increase short-term cohesion while planning for the future. Ideological flavors would vary from conservative with the Aspen Institute to wide open with a "Vail Conference II."

III. REDUCE STEREOTYPING AND INSULARITY

1. Integrated Planning Conferences

Now more than ever legal services advocates need to engage in planning. Their history and experience with planning is not good, but they cannot abandon the future, rather they must experiment with new planning techniques. NLADA should facilitate this planning skills of participants, and second, develop possible strategies which might be adopted by states and programs. NLADA could convene these conferences itself and/or it can commission other institutions to convene planning groups. For example, it might want to use the Aspen Institute because of its prestigious status within the national community and its ability to draw in a broader spectrum of people. Another possibility would be to use the Center for Law and Human Values to work with key legal services leaders on the issues of resistance to planning and the problems they face in broadening participation in the planning efforts, or NLADA might want to work with the ABA to build on the round of regional and consortium meetings which have been staged in the last six months.

This approach is similar to other proposed strategies. It would be distinguished by design differences which would seek to heighten the awareness of all participants to the distortions and costs of stereotyping and insularity. It would confront all ideologies and thus perhaps escalate conflict. The key would be in hiring very expert facilitators and in developing designs which are manageable. The implementation time frame is short, the impact would come later.

2. Rotating Fellowships and/or Sabbaticals

The sources of stereotyping and insularity are individuals and can only be broken down by individual experience. Therefore, NLADA should use the LDFP monies to facilitate rotational experiences for leaders from legal services, the private bar, and client organizations. These fellowships might be as short as a week or as long as a year. They would be designed to increase the interaction among these three groups. For example, a law firm in developing a pro bono capability within that firm. Simultaneously, a private practitioner from that same firm might be assigned to work in the development of practice skills with a small unit within the program. A special experimental program for private bar leaders might be developed which permitted them to spend a day with a low income family seeing firsthand the problems they face and then working with the local agencies to devise solutions to those problems.

Materials might be developed which would reduce stereotyping in the system. For example, filmstrips and videotapes showing advocates at work with clients could be used for increasing the information of private practitioners about legal services work. Existing films which reveal the difficulties facing the poor could be catalogued and brought together or portions of them assembled in ways which dramatically illustrate the dilemmas of the poor. These could be used to educate both the general public and the private bar.

Where relationships among various groups are particularly problematic, NLADA could stage clarification conferences with the assistance of outside facilitators. The groups would be assisted in the working through of their stereotypical perceptions of each other and helped to achieve some agreement on how to work together in the future.

Of all goals proposed, the one to reduce stereotyping and insularity seems the least connected to the current reality. It is not that the system is not over-politicized, it is. Rather, focusing on this aspect of the legal services all dilemma seems to some a bit like playing the fiddle while Rome burns. Others see a desperate need for this type of intervention into the system. The results of the rotating fellowships and informational strategies will be hard to track, but they could provide short, medium, and long term benefit.

IV. STRENGTHEN EXISTING INFRASTRUCTURE

1. Individual Fellowships

Once again, given the track record of individuals achievement in the legal services system, the focus of the NLADA effort should be on individual leaders. Because the current infrastructure lacks a sufficient number of minorities and the shortage is particularly acute in top leadership roles, individual fellowships should be targeted for minorities in staff national leadership programs could provide excellent leadership fellowship experiences. They are the National Urban Fellowship Program and the National Rural Fellowship Program and under the supervision of mentors working in related fields. The National Rural Fellowship Program offers a masters degree in rural planning in combination with the fellowship by providing an intensive eight-week summer program at the University of Massachusetts. The cost of a single fellowship, including salary stipend, travel expenses, educational experience, and administration is about $34,000 per year.

Similar fellowships could be offered to emerging leaders of all races and sexes based on their performance in the system to date and their likely roles in the future. Rotational fellowships which gave emerging leaders the opportunity to work in a number of legal services settings with the mentoring of existing leaders could be powerful developmental experiences. Individual fellows could be brought together before, during, and after their fellowships to share experiences and consolidate their learnings. This approach would model the White House Fellowship Program to some degree, although rather than spending a year in Washington, the fellow would more likely spend a quarter there, a quarter in Micronesia, a quarter in Chicago, and a quarter in Mission, South Dakota.

Fellows who have participated in all these programs and others attest to their value and the significance their fellowship experiences had on their lives and careers. In this regard, the individual fellowship approach is relatively risk free. Depending on the ideology of those selected, it could have a basis almost anywhere in the spectrum. Clearly its focus is medium or long term. Implementation could begin this year or next and techniques could be tailored to the outcome of the 1982 battle with the Reagan administration.

2. Intervention in Bellwether Programs

As California Rural Legal Services (CRLA) goes, so goes the world. Because of this, NLADA should identify the key Bellwether programs in the legal services system and use the LDFP monies to provide the intervention assistance to those programs in making the adaptation to the changes coming. This assistance could range from expert fundraising help, hiring experienced lobbyists and legal counsel, individual consultation help for managers and staff, technical assistance in reorganization, etc. The idea is to heighten the capacity of the symbolic programs to survive the current crisis and to provide energy and hope for other programs. Work done on these programs should be documented and shared with the full community.

This is a very high risk strategy, although twenty-five programs could be helped with $20,000 intervention grants. The selection of programs would generate lots of sibling rivalry and it is likely that some programs would not want or resist attention and assistance. The time frame for implementation is now--the impact short, medium and long term. If programs like CRLA and Northeast Ohio Legal Services (NOLS) which is headquartered in Youngstown and which also houses Staughton Lynd, are selected, ideological issues will be omnipresent.

3. National Orientation Program

The current system is extremely vulnerable to both the successes and failures of individual advocates working in individual programs. Whether an advocate is new to the legal services system or has been working in it for many years, he or she can benefit from a thorough analysis of the history of civil legal services for the poor. While it is hard for most civilizations and societies to learn from history, it is not as difficult for individuals to learn from it. A historical orientation can broaden one's perspective, help one understand how he or she fits into the legal services system, and generate ideas and solutions to new and emerging problems. The leadership monies should be used to create standard orientation programs based on a historical analysis of the legal services movement which will instill a sense of mission in staff, clients, and key external supporters. Several believe legal services should have a national orientation program which is similar to a military model and results in the indoctrination of those who pass through it.

To do so, NLADA might contract for the production of a professional film which covers the historical development of the movement and instills a sense of pride and mission in viewers. It could also arrange to stage well-designed orientation sessions for staff from all over the country on a quarterly or annual basis which draw on the best group process techniques in exposing new staff to the history, mission, and actual heros and heroines in the movement. These orientations could be staged at low cost campsites or universities and include skill building events as well. Alternatively, NLADA could create a videotape/handbook orientation package for individual use in individual programs and communities.

This strategy assumes that if a strong national orientation program or package was developed, local programs would choose to use it. There are risks here given the conservative political climate and many project directors might avoid the risk and choose to keep their staff at home. A high quality self-contained package could easily be prepared with current resources. Staging or actually producing ongoing orientation sessions is more problematic although if the initial pilot sessions are of the quality they should be, they could likely be supported by small user fees thereafter. Selection of an ideological approach is the key factor in this instance.

4. Sabbaticals

The current crop of legal services leaders is by and large psychically and physically exhausted. Many of them are planning to leave the system in search of rest and respite from the pressures which they have been under for the last several years. Loss of their expertise and experience will hurt the system in the ways it has always hurt the system. NLADA can make a key intervention right now by providing sabbatical support for key leaders in exchange for their promise to return to service after a year's planning and rest. Simultaneously or alternatively, NLADA should do what it can to alleviate the person-power shortage with regard to experienced mentors within the system. It can do this by providing modest sabbatical grants for experienced practitioners and other experts from the private sector work in programs that are particularly short of experienced staff and have potential for developing inexperienced staff skills.

The problem with the first aspect of this strategy is that large segments of the staff community would resist it and the leaders may not be restorable. This is because the capacity to destroy through criticism has achieved an advanced state of development in legal services. The mark of merit among staff is to cut leaders down to size, to blame, to demolish those whose views are not identical with one's own. "You hack away at me and what I stand for, and I'll hack away at you." The result: a landscape littered with mutilated leaders and razed programs. Nothing admirable, nothing alive except the insatiable zest to destroy, dissect and demolish, nothing left standing except some outsized critical egos. While the external threat has reduced the level of this type of behavior, it has not eliminated it. Whether departing leaders would want to come back is the first question. The second is whether temporary stand-ins could be recruited and then whether they could handle the task.

The importance of skilled mentors also raises the question of how they will be received and treated. They are a rare breed in any system and firms that have them would undoubtedly be reluctant to let them go. Others would argue that the legal services system must build its own mentors and that short-term importation only circumvents the problem.

Nonetheless, where good leaders can be found and renewed by sabbaticals and where good private sector mentors can be borrowed, efforts should be made if NLADA chooses to strengthen the legal services infrastructure.

* * *

STUDYING LEADERSHIP IN A TIME OF TRANSITION

As Ms. Lieberman was conducting her interviews and analyzing the data she collected, the Legal Services Corporation was changing significantly. The Congress of the United States was considering legislation to reauthorize the Corporation with various new restrictions, the President of the United States made recess appointments to the Board of the Corporation, an Acting President for the Corporation was appointed to replace Dan Bradley, and the future for the Legal Services Corporation appeared uncertain.

The Lieberman Report was widely circulated in the Legal Services community both to persons associated with NLADA as well as persons outside the Association who have an interest or expertise in the subject.

More than a hundred Legal Services persons and others commented on the Lieberman draft, and it was the subject of extensive discussion at NLADA's Civil Committee meeting on July 31, 1982 in Atlanta, Georgia and at the Board of Directors meeting the day that followed. There was significant concern expressed throughout the discussions and community review that whatever Leadership Project be established be consistent with the political, substantive, and structural context of Legal

Services at the time. This might well require a more flexible approach to leadership than had been originally envisioned when the project was requested by the Association. While the primary vehicle identified was a leadership institute, it was recognized that future developments might require an alternative approach.

For these reasons, the Association determined that various steps would be taken to establish the program in early 1983 so that it might respond to the immediate needs of the community.

WORK PLAN FOR 1983

The Leadership Project will be under the exclusive direction of the Executive Director and Civil Director of the National Legal Aid & Defender Association. Initially, a Project Director will be hired in early 1983 to coordinate the comments received by the field and to establish the initial programming for the project. The specific substantive programming for the project will be limited to those areas identified by the field as set forth in pages 10 through 26 of this report and as finally determined by the Executive and Civil Directors of NLADA in consultation with an advisory board to be appointed by the President of the National Legal Aid & Defender Association early to mid-1983. This Board will have the sole discretion to recommend the substantive programming for the project to the staff. NLADA will provide annual substantive reports to the Legal Services Corporation as well as complying with all of the fiscal requirements of the Legal Services Corporation. The Policy Board and this project, however, is entirely independent of the Corporation and its staff for the purpose of any substantive activity undertaken.

In coordination with the staff of the Legal Services Corporation during the summer of 1982, the following time lines and milestones were established by the Executive Director and Civil Director of NLADA:

March 1, 1983	PROJECT DIRECTOR HIRED BY EXECUTIVE DIRECTOR OF NLADA
March 1, - April 30, 1983	PROJECT DIRECTOR ASSESSES PRESENT STATUS OF LEGAL SERVICES AND MAKES RECOMMENDATIONS FOR IMPLEMENTING LEADERSHIP STRATEGY IN VIEW OF LIEBERMAN REPORT AND CONSEQUENT POLITICAL DEVELOPMENTS
April 1, - May 1, 1983	PRESIDENT OF NLADA APPOINTS ADVISORY OR POLICY BOARD AND CONVENES FIRST MEETING
June 1, - Sept. 30, 1983	FIRST PRIMARY SUBSTANTIVE ACTIVITIES OF LEADERSHIP PROJECT COMPLETED WITH REPORT SUBMITTED TO ADVISORY BOARD
Sept. 1, - Dec. 1, 1983	DECISION REGARDING LONG-TERM FUNDING STRATEGY FOR LEADERSHIP PROJECT INCLUDING THE POSSIBILITY OF SEEKING ADDITIONAL FUNDS FROM THE LEGAL SERVICES CORPORATION, SEEKING PRIVATE SOURCE FUNDING, FOLDING PROJECT INTO PRIMARY NLADA ACTIVITY, OR SCALING DOWN ACTIVITY FOR TERMINATION
Nov. 1, - Feb. 28-29, 1984	SECOND PRIMARY SUBSTANTIVE INITIATIVE OF LEADERSHIP PROJECT

BUDGET

In its initial year of operation, the primary funds spent for the project were the payment to Ms. Lieberman for her work as well as the cost of duplicating and distributing the substantial Leadership Report to broad segments of the Legal Services community. It is anticipated that as of January 1, 1983, between $300,000 and $350,000 will remain of the project for future expenditures.* NLADA has agreed to take no overhead charges from this grant beyond 1982, although direct costs attributable to the project will be allowed.

The following is an approximate breakdown of the anticipated expenditures for the project:

January 1, - June 30, 1983:	$50,000.00
July 1, - December 31, 1983:	$150,000.00
January 1, - June 30, 1984:	$150,000.00

The specific expenditures will be determined, of course, by the strategies adopted by the Policy Board and Project Director. If the strategy involves the convening of an institute at set times within the period, expenditures will be highly concentrated. If, on the other hand, the strategy is a longer-term intervention, expenditures will be spread more evenly throughout the period. It is anticipated that the project will utilize one full-time director and one support person, although partial staff, part-time staff, and consultants may be utilized to expedite the efficient completion of the specific strategy determined.

---

* A complete financial report will be submitted to the Legal Services Corporation following the close of the 1982 fiscal year on December 31, 1982.

CONCLUSION

The initial year of the Leadership Project has produced an outstanding document regarding leadership alternatives in the Legal Services community today. This document has been developed through extensive interviews with a broad group of persons and has generated comments and discussion within the community generally. Through the development of this work, its circulation, and subsequent comment, the project has developed a cohesive notion of leadership within the Legal Services community.

In a time at which programs face possible termination, reduction in funding, and restrictions in the type and manner of delivery, leadership must remain a flexible concept so that this project can best meet the needs of the Legal Services community.

Beginning in early 1983, the project will begin to develop substantive strategies inasmuch as a period of more relative stability is anticipated than has been present during the past twelve months. It is the commitment of NLADA to produce the type of project which meets best the needs of the community under the direction of an independent Policy Board supervised by the Executive Director and Civil Director of NLADA.

NATIONAL LEGAL
AID & DEFENDER
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1625 K STREET, N.W.
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(202) 452-0620

December 30, 1983

Terry Duga
Legal Services Corporation
733 Fifteenth St., N.W.
Washington, D.C. 20005

Re: Quarterly Report
of NLADA
Management Project

Dear Ms. Duga

Enclosed is the quarterly report of the NLADA Management Project for the fourth quarter of 1983. I used a version of the last reporting format provided by the Corporation.

Sincerely,

Wayne Pressel
Director
NLADA Management Project

WP:apg

cc: Clint Lyons

NATIONAL LEGAL
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MEMORANDUM

TO: Terry Duga, Coordinator for Decentralization in Training

FROM: Wayne M. Pressel, Director, Management Project

DATE: December 29, 1983

RE: Quarterly Report of Management Project

Period Covered October 1, 1983 to December 31, 1983

1. Center Name: NLADA Management Project

2. Center Director: Wayne M. Pressel

3. Report completed by Wayne Pressel

4. Grantee: National Legal Aid and Defender Association

5. Address of Center: NLADA, 1625 K Street, N.W., 8th Floor, Washington, CKC. 20006

6. Staff:

   (a) Wayne M. Pressel (Director) Planning and overall direction.

   (b) Sue Corrigan (Management Specialist) Workplan Implementation.

   (c) Diane Noble (Secretary) Office support.

7. None

8. Total Funding Received: $1,200,000

9. NLADA's fiscal year ends 12/31/83.

10. To be determined

11. Attached as Exhibit A is a copy of the listing of Management Project Policy Board members

12. Exhibit B delineates positions of Board members.

13. June 1983

14. N/A

15. The Management Project has undertaken training and technical assistance efforts in accordance with its 1983 workplan. During the relevant period, the project has entered into one or more contacts for the benefit of every program in the country, including state support.

16. Unknown at this time.

17. No equipment has been purchased in excess of $5,000 during the relevant period.

    The Management Project has retained the following individuals and organizations for consulting fees in excess of $2,500 during the relevant period:

    (a) Co. Associates - State support training coordinations.

    (b) To be identified - Program evaluation, Greater Boston Legal Services.

    (c) Erica Grubb - Program evaluation, Colorado

    (e) Earle Warner - Client board training package

    No prior approval is required.

NLADA MANAGEMENT PROJECT

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MEMORANDUM

TO: Terry G. Duga, Director of Liason, Grants Management and Legal Analysis, Legal Services Corporation Project

FROM: Wayne M. Pressel, Director, NLADA Management Project

Wayne M. Pressel

RE: Report of the NLADA Management Project

DATE: September 30, 1983

This memo is the quarterly report of the Management Project. I am sending it to you as the Director of Liason, Grants Management and Legal Analysis of the Legal Services Corporation. If you are not the correct recipient of this report, please forward it to the proper person. As before this report encompasses the Materials Resource Center as well as the Management Project.

The 1983 work of the Project has been proceeding as planned. Considerable time and expense have been invested in the development of training packages and resource materials. The Project's experience in training delivery has been that each setting calls for broad flexibility, and that the adaptability of the materials has been crucial to field acceptance. Moreover, the training materials have proved useful in training designed and conducted by other training centers, state support, and field programs.

Technical assistance efforts have been used primarily to reinforce training. This work has been successful in enabling field programs to implement the learning from training.

The discussion groups have been very important in prompting thought and leadership in group advocacy issues. Each discussion meeting has had a unique format and product adapted to specific needs. For example, the productivity discussion group tested a training package while the one on management of high quality representation provided a forum for broad debate on the direction of management in the legal services community.

MANAGEMENT PROJECT POLICY BOARD MEMBERS

Member	Delineation
John Garland	Project Director
Laura DeJesus	Client
John Dooley	Consultant
Maggie Howell	Client
Ernest Jones	Program Director
Art Lucero	Regional Office Staff
Norman Metzger	Project Director
Rachel Miler	Client
Robert Raven.	Private Attorney
Ada Shen-Jaffe	Associate Project Director
Annie Smart	Client
Robert Spangenberg	Senior Consultant
Marilyn Swears	Management Specialist

The manager development efforts of the Project have largely focused on supervisory skills training. This work has been very widely accepted with training plans for the majority of the LSC Regions. The self-instruction packages have sparked interest, and the Project will continue to distribute them.

Under the "special projects" category, managing in a multicultural setting has consumed much Project effort. The Project began with a carefully orchestrated discussion group serving as a springboard for the development of a training package which was completed in draft by the recent NLADA Conference. The training events planned for the fall will serve to further improve the package and substantially advance work in multicultural management. The other special projects, such as the Client Board Training Package, have afforded the Project the ability to respond to specific unique needs. These, again, have been successful.

The foundation of the Project's work has been firmly laid in the first half of 1983. As obvious evidence, training packages and resource materials have been created. Just as clearly, training has been delivered in a variety of contexts, and training opportunities will continue to increase. Just as significant has been the coordination with other entities. Much of the training delivery in high quality representation and manager devlopment has been cosponsored with the Training Centers and other legal services networks, such as state support. This cooperation has served to advance the Project's goals.

It is also apparant that the Project has much to accomplish in fulfilling its priority. The theme of high quality representation presents an immense challenge to legal services management. As well as the Project has addressed these issues at this point, consistency of theme and persistance in approach are necessary to capitalize on the current investment.

Manager development, the Project's second priority, has been extremely successful in providing supervisory skills training through PAWS II and Management by Development packages. Additionally, the Project's involvement in the Client Board Training package as well as the publishing of the Project Selection Guide (PRODS) have been well received.

NATIONAL LEGAL
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MEMORANDUM

TO: Anita Henry, Coordinator for Decentralization in Training
FROM: Wayne M. Pressel, Director, Management Project
DATE: June 30, 1983
RE: Semi-Annual Report of management Project

* * *

Period Covered - January 1, 1983 to July 1, 1983

1. Center Name: NLADA Management Project

2. Center Director: Wayne M. Pressel

3. Report completed by Wayne Pressel and Beverly Brown

4. Grantee: National Legal Aid and Defender Association

5. Address of Center: NLADA, 1625 K Street, N.W., 8th Floor, Washington, CKC. 20006

6. Staff:

   (a) Wayne M. Pressel (Director) Planning and overall direction.
   (b) Sue Corrigan (Management Specialist) Workplan Implementation.
   (c) Beverly Brown (Administrator) Project administration.
   (d) Diane Noble (Secretary) Office support.

7. None

8. Total Funding Received: $1,200,000

9. NLADA's fiscal year ends 12/31/83.

10. To be determined

11. Attached as Exhibit A is a copy of the listing of Management Project Policy Board members.

12. Exhibit B delineates positions of Board members.

13. Dates of Policy Board Meetings: February 4, 1983

14. N/A

15. The Management Project has undertaken training and technical assistance efforts in accordance with its 1983 workplan. During the relevant period, the project has entered into one or more contacts for the benefit of every program in the country, including state support.

16. I have attached as Exhibit C expense reports for the Management Project for the reporting period.

17. Unknown at this time.

18. No equipment has been purchased in excess of $5,000 during the relevant period.

The Management Project has retained the following individuals and organizations for consulting fees in excess of $2,500 during the relevant period:

(a) Co. Associates - State support training coordinations.

(b) To be identified - Program evaluation, Greater Boston Legal Services.

(c) Erica Grubb - Program evaluation, Colorado

(e) Earle Warner - Client board training package

(f) Abdul Rasheed - program development, A.L.R.

No prior approval is required.

Exhibit A

NLADA MANAGEMENT PROJECT

Policy Board

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EXHIBIT C.

MANAGEMENT PROJECT

Expenditures

1/1/83 - 5/31/83

1.	Staff Salaries	$36,189
2.	Salary Fringe	5,419
3.	Rent	5,673
4.	Equipment	1,128
5.	Telephone	2,432
6.	Duplicating	1,167
7.	Printing	5,628
8.	Supplies	413
9.	Postage & Mailing	1,243
10.	Publications	26
11.	Moving	835
12.	Board Travel	6,879
13.	Staff Travel	10,569
14.	Consultant Fees	54,149
15.	Consultant Expenses	21,891
	Total	$153,641.

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January 24, 1983

MEMORANDUM

TO: NTCC and Anita Henry

FROM: Wayne Pressel Wayne

RE: 1982 Activities

At the last NTCC meeting, NTCC Directors asked to see the list of programs assisted in 1982 by the Management Project. Attached is a listing as of November 1, 1982, which was submitted to the Project's Policy Board. While not entirely up-to-date, I though it might be helpful. Note that the listings of State Support, Regional Training Centers and Regional Offices represent multi-program events.

The Management Project is sending monthly reports to the field through state, regional and national networks. If there are individuals you think should be added to the list, please let me know.

PRIORITY AREA #1

"Management Needs in Times of Change"

Goal

The major goal of this area is the development of delivery systems that will assure optimum efficiency and effectiveness and serve an alternative to individual client representation by a staff attorney or paralegal individual.

Objectives

Specific objectives in this area include:

a) foster design and implementation of alternative service delivery systems.

b) improving existing delivery structures to assure new client needs are met.

c) encourage the design and piloting of programs that will be replicable nationally.

d) foster and implement skill development dealing with issues revolving around retrenchment and financial cutbacks.

e) encourage evaluation design and implementation that will monitor the status of programs.

f) foster skill development and planning related to advocacy activities.

Themes

As we view the contracts enacted upon in the past several months, several themes emerge. The identification of themes plays a crucial role in the development of future indicators both in the role the Management Project plays in the field and in the future direction of Legal Services Programs. The themes have been generated by a comparison of technical assistance requests and actual work done. What arises is the design of model systems that will assure efficiency and effectiveness in service delivery. This priority area has been addressed through the support of the following themes:

Group Representation

This theme relates specifically to the number and type of clients to be served. Current financial cutbacks have caused project directors to seriously consider group representation as an alternative to traditional methods. This includes such designs as pro se clinics, community education and client self-help. Other alternatives involve activity in the area of advocacy including the development of task forces, coalitions, etc.

Resource Consolidation

This theme emerges as a result of retrenchment and is directly related to the development of Management Information Systems. Many Legal Services offices have most recently experienced severe retrenchment. Thus, the question most often presented in requests received by the Management Project relates to the following question: "How do I do more with less?" The response to this question has involved the design or improvement of such delivery strategies as phone systems, circuit riding, resource integration (i.e., mergers, agency cooperation).

Computer Programs

Much activity has been generated in this area. Many requests via phone and mail have been received requesting information on computerization of information. The rationale behind these requests arises from a major concern revolving around the provision of service to the greatest number of clients. Two major projects serve as what might be called model programs. Both contracts have the development of management information systems (MIS) as a major goal. MIS, traditionally, deals with much more than management issues. It might be said that these systems can actually provide service and facilitate the most effective functioning of Legal Services staff.

Assessment and Evaluation

This area, in many ways, has also emerged as a most important area. In this time of accountability and retrenchment, methods of evaluation still remain complex. Several sites have expressed a need for an evaluation or assessment design. If well done, this can, in fact, provide information that will aid in resolving issues surrounding productivity and accountability to funding sources.

Activities

Specific activities in this area are:

- System Evaluation
- Needs Assessment
- Pro Se Clinics
- Phone Systems
- Computer Software Development
  1. Management Information Systems
  2. Programming
- Financial Planning
- Task Force Development in Financial Alternatives
- Planning paper in Structural Development
- Planning paper on Recasting Priorities in the face of new client needs
- Training activities in Productivity
- Feasibility studies for the use of computer software development
- Workshops on Client Self-Help Clinics

Contracts

Legal Aid Foundation of Los Angeles, CA
Southeastern Massachusetts Legal Aid, MA
Mid-Hudson Legal Services, NY
Oak Orchard Legal Services, NY
Neighborhood Legal Services, NY
Southern Tier Legal Services, NY
Monroe County Legal Assistance, NY
Contra Costa Legal Services Foundation, CA
Legal Services of New Jersey
Philadelphia Regional Office, PA
Massachusetts Training Center, MA
Denver Regional Office, CO
California Deliverers Association, CA
Seattle Regional Office, WA
Atlanta Regional Office, GA
Small Projects Association, CA
Papago Legal Services, AZ
Western Regional Training Center
California Rural Legal Assistance, CA
Public Interest Clearinghouse
Central Mississippi Legal Services, MS
South Central Connecticut Legal Services, CN
Western Texas Legal Services, TX
Arkansas Legal Services, AK
Legal Services of the Virgin Islands, VI

Implications - Trends

Major trends for this area have been identified as the result of an analysis of work actually done and conversation with managers on site. One item that evolves is the area of change itself. Much discussion has centered around the impact of change and its effect on service delivery. This leads to the thought that information sharing, skill development and agency cooperation as methods of dealing with change become crucial areas for focus in the coming year.

A second area arises revolving around the issue of productivity. Much still needs to be done in the development of designs that deal with this concern. It can be seen that productivity and its measurement is an elusive fact that presents itself as a day-to-day reality for managers. The lack of definition surrounding this issue precludes the difficulty of designing systems that can effectively measure productive output. The focus, here, can include a clearer definition of productivity and the identification of specific areas.

A third area that has surfaced for focus is the area of computer programs. Most often the mention of computer program development leads one to believe that this activity involves just simply the cataloguing of information. However, this type of program development presents potential that has to be explored further with regard to actual service delivery.

A fourth area revolves around the development of task forces to deal with major issues in the field. Establishment and/or implementation of task forces can serve as a major vehicle for future policy development. However, the skill of successfully establishing such a vehicle is in the hands of very few at this point. A future focus can include leadership or participation in establishing task forces as well as skill development in the "how to" aspect.

Conclusions

The trends presented above reflect a majority of requests presented to the Management Project. The activities of 1982 have provided needs assessment material related to the state of field. This information has been acquired through the use of marketing techniques (i.e., field interviews, group presentations, mass mailing, etc.) and is crucial to goal achievement. The work that has been done over recent months related to the requests have in fact laid some excellent groundwork for the 1983 workplan. The workplan itself has been generated by an analysis of the content of requests as has been presented here.

PRIORITY AREA #2

Manager Development

Goal

The major goal of this area is to promote and ensure manager skill development in Legal Services Programs.

Objectives

Specific objectives in this area include:

a) foster and implement training of specific management skills to new project directors.

b) desing and implement training in skills related to supervision of program staff.

c) foster the design of systems of supervision that will assure effective staff functioning.

d) foster training in Board and staff relations so that the major goals of specific programs are realized.

e) foster an understanding of the management position that will result in the effective decision - making and problem-solving.

f) support the design of training programs in effective leadership styles.

Themes

The identification of themes in this area is the result of self-expressed needs for skills development of managers in the field. We have seen that these expressed needs, in turn, have become indicators of the state of the field. Addressing these needs will begin to determine styles of management for the future in Legal Services Programs.

The themes have been generated by detailed conversations with managers in the field as well as consultants who have provided manager training. This prioritiy area has been addressed through the support of the following themes:

New Project Director Needs

This theme centers around the acceptance of a manager position and the accompanying responsibilities. Expressed needs in this area have encompassed a range from sheer panic to methods of routinization. Thus, the design and development of training in the management of programs has been an appropriate

response to several requests. This response has also included the development of self-help materials for directors along with the establishment of a "mentor" program. This program facilitates the provision of expertise and support of those most experienced to those least experienced.

Design of Supervisory Systems

This theme emerges as a second stage of the manager role. This particular area raises several questions:

- Now that I have the basic skills, how do I use them in an on-going fashion?
- Is it possible to create management structure to keep all my staff headed in the same direction?
- What do I do about staff rivalry?
- What do I do about someone who is not "pulling their load"?

Addressing these questions and anticipating new ones will aid in assuring program success. Responses to request in theme area have involved the use of a specific system entitled "Management by Development." This system presents information and training in role clarification both for the supervisor and staff and the establishment of criteria for monitoring staff activity and productivity.

Capacity Development

This theme addresses itself to an on-going process of manager development including such areas as long-range planning, contingency planning, fiscal management, board relations, labor-union negotiation, etc. A majority of requests have centered around this theme and training in a variety of activities mentioned above. The most important aspect of capacity development is its ability to present a long-term perspective on every aspect of a program and its staff. This has been a focal point in each of our requests. Responses have included the design of training programs and self-help materials.

Activities

Specific activities in this area include:

- New Project Director Training
- Supervisory Skills Training
- Management by Development
- Self-Help Materials on
    1. Staff Relations
    2. Board Relations
    3. Budgeting
    4. Planning
- New Project Director Selection Training
- Board of Directors Training
- PAWS II

Contracts

Virginia Legal Aid Society, VA
Pine Tree Legal Services, ME
LSC, San Francisco, CA
Blue Ridge Legal Services, VA
Legal Aid Foundation of Long Beach, CA
Flordia Justice Institute, FL
Western Regional Training Center
Legal Aid Society of Marin County, CA
Denver Regional Office, CO
Atlanta Regional Office, GA

Implications

It might be said, here, that the themes delineated above also present themselves as trends. Most of the requests received have in some way included all three. Managers in the field have had to come to grips with the varying dimensions of each theme and to begin to view those in terms of the future existence of legal services programs.

Conclusions

The material presented above can be said to be solidly representative of management issues existing in the field. The response of the Management Project has focused on the development of training programs for managers that will foster independence through skill development ultimately resulting in consistently increasing self reliance. Vehicles such as self instruction materials, use of the mentor program and specific skill training are steps toward the major goal.

NATIONAL LEGAL
AID & DEFENDER
ASSOCIATION

1625 K STREET, N.W.
EIGHTH FLOOR
WASH., D.C. 20006
(202) 452-0620

December 18, 1982

MEMORANDUM

TO: Anita Henry, Coordinator for Decentralization of Training

FROM: Wayne Pressel

RE: NLADA management Project 1983 Workplan

The purpose of this memorandum is to respond to your request for information regarding the Management Project's 1983 workplan. Attached is a revision of the December, 1982, quarterly report which both reviewed 1982 activities and charted work for 1983. I will respond to your inquiries by the order and numbers of your questions.

1) See attached report. These plans have been sanctioned as a definite undertaking by the Project's Policy Board.

2) See attached report. Virtually all of the training activity will use materials under development in both 1982 and 1983.

3) See attached report.

4) There are no significant revisions. The 1983 workplan represents a detailing of the 1982 workplan submitted to the Corporation.

5a) Projected 1983 Budget

Salaries with fringe	110,000
Rent	12,000
Equipment	2,500
Telephone	10,000
Duplicating and Printing	25,000
Supplies	600
Postage and Mailing	3,000
Publications	100
Staff Travel	20,000
Board Travel	14,500
Consultant Fees and Expenses	402,300
TOTAL	600,000

5b) There is no charge for administration of the grant or overhead to NLADA in 1983. Office operations apart from work with field activities is approximately 5% of the 1983 budget. Including field work, approximately 1/3 of the 1983 budget will be spent on office operations.

5c) There are four staff to the Management Project. The Director is responsible for overall administration of and planning for the Project. The Management Specialist is responsible for daily workplan implementation. The Administrator is reponsible for supervision of contracts and office management. The secretary is responsible for assisting the other three staff.

5d) No 1983 funds came from the Corporation. The 1981 and 1982 funding from the Corporation will finance 1983 operations. There is approximately $600,000 of unencumbered balance of Corporation funds as of January 1, 1983. There are no funds received from other sources in 1983.

5e) The Project does not have any funds with new restrictions. The only restrictions are those contained in the original grant.

5f) The categories presented are not directly applicable to the Project's workplan. Approximately 85% of the 1983 expenditures for office operations will be devoted to training and technical assistance activities. The full 100% of consultant fees and expenses willpay for training and technical assistance. Approximately 80% of the total training and technical assistance efforts will be spent on developmental activities.

cc: NTCC
John Garland

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ASSOCIATION

1625 K STREET, N.W.
EIGHTH FLOOR
WASH., D.C. 20006
(202) 452-0620

September 21, 1982

Ms. Anita Henry
Legal Services Corporation
Atlanta Regional Office
615 Peachtree Street, N.W., 9th Floor
Atlanta, Georgia 30308

Dear Anita:

Enclosed is the final reporting you requested. I would note that there has been no contract non-compliance. The latest report was sent to you prior to our meeting of August 12, 1982, as you had requested, and that based upon our conversation and contract amendment, the Management Project's reporting arrangement has been rearranged since the original contract. Please also note that all reporting prior to your assumption of responsibilities has been made.

Sincerely,

Wayne /

Wayne M. Pressel
Director, Management Project

cc: Buckey Askew
John Garland
Howard Eisenberg
Jody Smith

NATIONAL LEGAL
AID & DEFENDER
ASSOCIATION

1625 K STREET, N.W.
EIGHTH FLOOR
WASH., D.C. 20006
(202) 452-0620

MEMORANDUM

TO: Anita Henry, Coordinator for Decentralization in Training

FROM: Wayne M. Pressel, Director, Management Project

DATE: August 5, 1982

RE: Semi-Annual Report of Management Project

%%%%%%%%%%%%%%%%%%%%%

Period Covered - October 1, 1981, to June 30, 1982

1. Center Name: NLADA Management Project

2. Center Director: Wayne M. Pressel

3. Report completed by Wayne Pressel and Beverly Brown

4. Grantee: National Legal Aid and Defender Association

5. Address of Center: NLADA, 1625 K Street, N.W., 8th Floor, Washington, D.C. 20006

6. Staff:

   (a) Wayne M. Pressel (Director) Planning and overall directing.
   (b) Sue Corrigan (Management Specialist) Implementing workplan.
   (c) Beverly Brown (Administrator) Project administration.

7. None

8. Total Funding Received: $1,200,000

9. NLADA's fiscal year ends 12/31/82.

10. None

11. Attached as Exhibit A is a copy of the listing of Management Project Policy Board members.

12. Exhibit B delineates positions of Board members.

13. Dates of Policy Board Meetings: March 26, 1982 and June 25, 1982

14. N/A

15. The Management Project has provided the following assistance grants:

    Nevada Legal Services - The Management Project has contracted with a consultant to provide technical assistance in the planning for execution and follow-up for statewide meeting of staff, local boards and state boards and clients to consider recasting priorities, implementing strategies and delivering mechanisms to achieve priorities.

Legal Services of New Jersey, Inc. - To cover costs of two statewide 800 numbers for area codes (202) and (609) and to develop recorded tapes on specific legal subjects.

In addition to the above grants, the MP has administered $167,000 in grants allocated to the nine LSC Regional Offices. Exhibit C lists these grants by program.

These listings do not reflect the current activity level.

16. I have attached as Exhibit D financial reports for the Management Project covering 1981 and 1982 expenditures.

17. Continued support in coordinating with other training efforts and working with the field.

18. No equipment has been purchased in excess of $5,000.

The Management Project has retained the following consultant services in excess of $2,500 in addition to the consultants hired under the regional office allocations listed in answer to question 15.

Brenda Gardner ($25/hour, 20 hours/week, 80 hours/month) - Duties include development of workplan papers on Project priorities, develop mechanisms to identify, train, monitor and evaluate consultants, as well as contracts. To review incoming proposals in interim of hiring Management Development Specialist.

No prior approval is required by Corporation for contracting of consultants.

19. None

Exhibit A

NLADA MANAGEMENT PROJECT

Policy Board

John Garland, Chairperson
Legal Services of the Coastal Plains
P. O. Box 564
Ahoskie, North Carolina 27910
(919) 332-5124

Laura DeJesus
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Fajardo, Puerto Rico 00648
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Burlington, Vermont 05401
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(802) 863-5888 (work)

Maggie Howell
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Ernest Jones
Community Legal Services
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Philadelphia, Pennsylvania 19107
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Legal Services Corporation
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(303) 837-5981

Norman Metzger
Legal Services Organization of Indiana
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Baton Rouge, Louisiana 70802
(504) 387-2755

Robert Spangenberg
Abt Associates
55 Wheeler Street
Cambridge, Massachusetts 02138
(617) 492-7100

Dr. Marilyn Swears
Alabama Consortium of Legal Services
500 Bell Building
207 Montgomery Street
Montgomery, Alabama 36104
(205) 264-1471

Exhibit B

MANAGEMENT PROJECT POLICY BOARD MEMBERS

Member	Delineation
John Garland	Project Director
Laura DeJesus	Client
John Dooley	Consultant
Maggie Howell	Client
Ernest Jones	Program Director
Art Lucero	Regional Office Staff
Norman Metzger	Project Director
Rachel Miler	Client
Robert Raven	Private Attorney
Ada Shen-Jaffe	Associate Project Director
Annie Smart	Client
Robert Spangenberg	Senior Consultant
Marilyn Swears	Management Specialist

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ASSOCIATION

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WASH., D.C. 20006
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Exhibit C

LSC Regional Allocations

Boston	
Vermont Legal Aid	$ 1,617.00
Greater Boston Legal Services	1,713.00
Regional Office	2,000.00
Pine Tree Legal Assistance	500.00
Regional Office	500.00
New York	
NY Shared Services Corporation	2,500.00
Regional Office	2,700.00
Mid Hudson Legal Services	750.00
Western New York	7,525.00
Legal Services of the Virgin Islands	3,899.00
Western New York Programs	1,466.40
Western New York Consortium	532.00
Seattle	
Oregon Legal Services	3,000.00
Legal Services for S.E. Wyoming	500.00
Legal Services for S.E. Wyoming	435.00
Legal Aid Services of Multomah Bar Assn.	720.00
Evergreen Legal Services	2,460.00
Chicago Region	20,565.00
Philadelphia	
Law Coordination Center	8,527.00
Legal Services of New Jersey	8,527.00
Virginia	
Legal Services of Northern Virginia	10,000.00
W. Virginia Legal Services Plan	5,000.00
Legal Aid of Central Michigan	2,350.00
Legal Aid Society of Cinncinati	650.00
Atlanta Region	40,000.00
Denver	
Colorado Coalition for Legal Services	5,000.00
Colorado Coalition for Legal Services	10,347.00
California Indian Legal Services	1,800.00
DNA-Peoples legal Services	2,200.00
San Francisco	
Legal Aid of San Mateo	$ 500.00
Legal Services of Northern California	1,500.00
Legal Aid Society of Alameda County	14,235.00

Exhibit D

NLADA MANAGEMENT PROJECT

Financial Report - 10/31/81-12/31/81

INCOME

Legal Services Corporation			
10/31/81	$411,667.00		
11/30/81	238,333.00		
12/31/81	550,000.00	$1,200,000.00	
Interest accrued		25,097.00	$1,225,097.00

EXPENSES

Salaries	$ 0.00	
Fringe	0.00	
Printing	46.00	
Delivery	4.10	
Duplicating	37.62	
Office Supplies	161.75	
Personnel Recruitment	771.47	
Staff Travel	513.47	
Policy Board Travel	1,129.68	
Registration	615.00	
LSC Regional Allocations *	166,667.00	(186,418.23)
Balance of Grant 12/31/81		$1,038,678.77

*Report on LSC Regional Allocations attached.

NLADA MANAGEMENT PROJECT

Financial Report - 1/1/82-6/30/82

INCOME			
Balance forward 12/31/81		$1,038,678.77	
Project Directors Grant		1,815.03	
Interest (5/31/82)		13,961.64	$1,054,455.44
EXPENSES			
Overhead		$ 180,000.00	
Personnel			
Salaries	$23,549.92		
Fringe	9,840.66	33,390.58	
Office Administration			
Rent	$ 5,000.00		
Equipment	1,235.75		
Telephone	2,803.63		
Duplicating	609.18		
Printing	209.15		
Office Supllies	726.47		
Postage	1,299.81		
Delivery	55.55		
Pulbications	14.95	11,954.49	
Miscellaneous			
Personnel Recrut.	$ 2,045.21		
Moving Exp.	4,084.02	6,129.23	
Travel			
Policy Board	$13,553.28		
Staff	11,370.59	24,923.87	
Consultants			
Contracts	$ 8,958.52		
Travel	401.97	9,360.49	(265,758.66)
			$ 786,881.75

NATIONAL LEGAL
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1625 K STREET, N.W.
EIGHTH FLOOR
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MEMORANDUM

TO: Anita Henry
FROM: Wayne Pressel
DATE: September 15, 1982
RE: Requested Information

####################

The purpose of this memo is to respond to the questions listed in attachment to your letter of July 22, 1982. The information is current as of the September 10, 1982, meeting of the NLADA Management Project Policy Board.

1) The Policy Board of the NLADA Management Project is responsible for setting goals and priorities. All existing minutes are attached. Minutes of the September 10, 1982, meeting will be forwarded when completed.

2) Four of the 13 members of the Policy Board are clients who have both substantial input and voting power on Project goals and priorities. Additionally the Project has solicited and received client input through the NLADA Civil Committee and Board of Directors, individual clients attending Regional Project Director meetings, and from the National Clients Council.

3) Attached is the Project's "Consultant Development System" including affirmative action requirements. The Project requires affirmative action information from all consultants, and the NLADA Affirmative Action Office oversees both records and compliance.

4) None.

5) The Project has had significant contact with the following agencies/organizations:

a) All Five Regional Training Centers - co-sponsoring training with two of them;

b) Rural Training Project - planning joint training and technical assistance;

c) Substantive Law Training Project - planning joint training and technical assistance;

d) Florida Justice Institute - co-sponsoring training and technical assistance;

e) American Bar Association - co-sponsoring training and technical assistance;

f) Legal Counsel for the Elderly - co-planning training and technical assistance;

g) Legal Services Corporation - co-sponsoring training and technical assistance with Delivery Research Unit and Regional Offices; and

h) attached is a list of current requests for work with legal services field programs.

6) The Project has solicited needs assessment information from field programs, state support units, LSC Regional Offices, and LSC National Office in addition to those organizations referred to in the response to Question 2. This input has come from formal presentations at meetings of these groups as well as informal contacts. Attached is a description of the Project's "Operating Procedures" which outlines the use of the requests for assistance as an on-going needs assessment mechanism.

7) Lack of adequate on-going funding in field programs, state support units, LSC Regional Office and the five regional training centers is the major obstacle.

8) Attached is a memo to the Policy Board on "Proposed Activities." Additionally, the Board has directed the Project to develop a comprehensive plan for the next 15 months. This plan will focus 75% of the Project's resources to "management in times of change" and 25% to development of manager skills.

9) See answer to Question 8.

10) The planning has become more detailed as the work has evolved.

11) Coordination of work with other NTCC members has been an area of special concentration of the Project. Management training and technical assistance plays a significant role in the substantive priorities of the other NTCC members.

12) On-going contact is maintained with all of these organizations. All of them are eligible for contracts for the benefit of field program activities. See the attached "Report on Requests and Work Done."

13) None

14) Assisting individuals/organizations in the legal services community to coordinate through clearinghouse activities is an inherent function of the Project through requests for assistance. Additionally, the Project sponsors the Materials Resource Center making available written and audio-visual materials. Finally, the Project regularly publishes articles in the Clearinghouse Review, NLADA Briefcase, NLADA Cornerstone, and various regional training newsletters.

15) Developmental activities are part of all priority areas undertaken by the Project. See the attached "Report on Requests and Work Done" and memo on Proposed Activities.

16) See copies of first pages of all Management Project consultant contracts attached.

17) Included with copies attached in response to question 16.

18) See attached "Report on Requests and Work Done" and memo on "Proposed Activities."

19) See attached evaluation of LSC materials.

20) No.

21) None.

22) See attached "Report on Work Done" and Memo on "Proposed Activities."

23) None

24) None

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(202) 452-0620

MEMORANDUM

TO: Anita Henry
Coordinator for Decentralization in Training

FROM: Wayne Pressel, Director, Management Project

DATE: August 5, 1982

RE: Semi-Annual Report of Management Project

Report Covering Period October 1, 1981, to April 30, 1982

1. Center Name - NLADA Management Project

2. Center Director - Wayne M. Pressel

3. Report completed by Wayne Pressel and Beverly Brown

4. Grantee - National Legal Aid & Defender Association

5. Address of Center - NLADA, 1625 K Street, N.W., 8th Flr.
Washington, D.C. 20006

6. Staff

Wayne M. Pressel	Director	Planning and overall directing
Sue Corrigan	Management Specialist	implementing workplan
Beverly Brown	Administrator	Administering project

7. None

8. Total Funding Received - $1,200,000.00

9. NLADA's fiscal year ends 12/31/82.

10. None

11. Attached as Exhibit A is a copy of the listing of Management Project Policy Board members.

12. Exhibit B delineates positions of Board members.

13. Dates of Policy Board meetings 1/1/82 through 6/30/82: March 26, 1982 and June 25, 1982.

14. I have attached as Exhibit C as copy of the workplan presented to the Policy Board at its Atlanta June meeting. Note: The Management Project Policy Board may direct the Project to work in areas outside the attached memo. The Board also directs the Project in predetermined specific activities in the detail proposed.

15. The Management Project has provided the following technical assistance grants:

    Nevada Legal Services - The MP has contracted with a consultant to provide technical assistance in the planning for execution and follow-up for statewide meeting of staff, local boards and state boards and clients to consider recasting priorities, implementing strategies and delivering mechanisms to achieve priorities.

    Legal Services of New Jersey, Inc. - To cover costs of two statewide 800 numbers for area codes (202) and (609) and to develop recorded tapes on specific legal subjects.

    In addition to the above grants, the MP has administered $167,000 in grants allocated to the nine LSC Regional Offices. Exhibit D lists these grants by program.

    These listings do not reflect current activity level Since May 1, 1982, the MP has been finalizing contracts and implementing work on over 40 requests.

16. I have attached as Exhibit E financial reports for the Management Project covering 1981 and 1982 expenditures.

17. This will also be reflected in the financial reports.

18. No equipment has been purchased in excess of $5,000.

    The Management Project has retained the following consultant services in excess of $2,500 in addition to the consultants hired under the regional office allocations listed in Exhibit D.

    Brenda Gardner ($25/hour, 20 hours/week, 80 hours/month) Duties include development of workplan papers on Project priorities, develop mechanisms to identify, train, monitor evaluate consultants, as well as contracts. To review incoming proposals in interim of hiring MDA.

18. (cont.) No prior approval is required by Corporation for contracting of consultants.

19. None

Exhibit A

NLADA MANAGEMENT PROJECT

Policy Board

John Garland, Chairperson
Legal Services of the Coastal Plains
P. O. Box 564
Ahoskie, North Carolina 27910
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Alabama Consortium of Legal Services
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Montgomery, Alabama 36104
(205) 264-1471

Exhibit B

MANAGEMENT PROJECT POLICY BOARD MEMBERS

Member	Delineation
John Garland	Project Director
Laura DeJesus	Client
John Dooley	Consultant
Maggie Howell	Client
Ernest Jones	Program Director
Art Lucero	Regional Office Staff
Norman Metzger	Project Director
Rachel Miler	Client
Robert Raven	Private Attorney
Ada Shen-Jaffe	Associate Project Director
Annie Smart	Client
Robert Spangenberg	Senior Consultant
Marilyn Swears	Management Specialist

Exhibit C

NATIONAL LEGAL
AID & DEFENDER
ASSOCIATION

1625 K STREET, N.W.
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WASH., D.C. 20006
(202) 452-0620

MEMORANDUM

TO: Management Project Policy Board

FROM: Wayne Pressel, Director

DATE: June 11, 1982

RE: Proposed Activities

****

The purpose of this memo is to outline the specific activities for the Management Project from July 1, 1982, through December 31, 1982. These areas are the product of needs assessment and planning based on the priority areas chosen by the Policy Board at its March, 1982, meeting. There were two major sources of information and analysis. The first was data gathered through informal field contacts at meetings: individuals at Private Bar Involvement Conferences, groups at Project Director Meetings and workshops at a recent Office of Field Services Conference. Additionally, I have reviewed proposals submitted to the Project, as well as written analyses of past efforts. The second was a series of three papers focused on each of the original priorities and based on extensive field program interviewing.

There is an inherent limitation to the planning. The information from the field is not unanimous; in fact, central themes have been slow to emerge. Part of the reason is the uncertainty of the future. Part is the trauma of the past. The need to actively work in the field now is predominant, making rigid or detailed planning inappropriate. There are concrete efforts which need attention, and it is my expectation that the field work itself will teach us much about future directions. Flexibility to change direction is crucial.

The following itemized narrative outlines my current choices. My job as Director is to flesh out priorities into real activities and to accomplish them. There are, however, two roles which the Policy Board needs to play. The first is to offer substantive input and reaction to my planning. The second is to support the Project's implementation.

and to accomplish them. There are, however, two roles which the Policy Board needs to play. The first is to offer substantive input and reaction to my planning. The second is to support the Project's implementation.

I. New Delivery Structures

The legal services community has undergone severe stress from both without and within. Retrenchment came before field programs had completed expansion, and the unknowns of the future have compounded the trauma. Most programs have grappled with substantive law priorities; the need now is for field programs to structure their work. Field programs need to examine their delivery structures to ensure that their organizations are best designed to accomplish the goals they have established.

The advent of private bar involvement is certainly the most striking national innovation; however, technical assistance monies are already available through other national grants. There are, however, several new delivery structures needing attention. Self-help clinics, telephone intake/advice/referral systems, modified circuit riding, as well as increased legislative and administrative advocacy, state and regional coalition-building and other forms of policy advocacy are all known examples calling for development. What programs need is to decide what fits best, and who has done what. The Project will address the issues of new delivery systems by both direct technical assistance and training. There are two tasks a program faces in deciding upon its delivery structure. The first is an examination of the organization as it is currently constituted. The second is being aware of the spectrum of alternatives from which to choose. Few programs have the internal expertise to accomplish the first, and fewer yet the national perspective to know the second. The initial strategy will be to offer programs trained consultants: (1) to assist field staff to understand their current structures (2) to expose programs to the experiences of others as well as to wholly new ideas in delivery structures and (3) to help programs plan for the implementation of chosen delivery structures. Board, staff, clients and other program constituencies would be represented. Although the Management Project cannot undertake the responsibility of restructuring programs, it can and should stimulate the field to reexamine its delivery structures and to able to choose new directions. Training at Project Director's meetings and other forums will supplement the technical assistance.

II. Manager Development

Much of the foregoing hinges upon the continued skills development of legal services managers. Local programs must become more responsible for the improvement of their own internal management. Currently, most field programs are not able to assume this burden. While the Project should not create dependencies by local programs, it must strongly encourage field managers to improve become better at their daily jobs. Two specific areas appear from the needs assessment: new Project Director training and supervisory skills training. As for training new Project Directors, the Management Project will design an economical package stressing solving the immediate problems of individual Directors coupled with a "buddy system," to provide relevant and continuous support. The training will be offered through LSC Regional Offices. As for supervisory skills, the Project will co-sponsor training using the PAWS II package.

III. Planning

Though hardly a new subject, field program planning skills need to be simplified and reinforced. Virtually every program is facing continual changes and uncertainties. Historical work in planning skills has been viewed as cumbersome and complicated. The Project will train field program managers to plan their activities within the local limitations of the setting. Thinking through alternatives, determining what is to be accomplished and identifying what is necessary to do to achieve the ends are basic considerations whether the program is hiring replacement staff or designing an entirely new delivery structure. Simplified planning will also ensure that all relevant groups are involved while avoiding elaborate process.

Training is an appropriate strategy because it is necessary that the programs continually strengthen the planning skills of its local managers. No amount of resources through the Management Project could meet the daily plannig needs of the field through technical assistance. The initial training will focus on Regional

Office and State Support Center staff in order to provide a large pool of people who in turn can directly assist field programs in their planning efforts. The Project will also offer workshops at all regional Project Director meetings (ten one-day sessions). Ten sessions will occur in the next six months. The training methodology will concentrate on plannng around participants' actual problems of the participants. Again,

IV. Measurement and Improvement of Effectiveness

This is one part of the productivity formula. Programs need to be able to evaluate how well they accomplished their goals. Accountability to both clients and Congress demands this assessment; moreover, internal needs for staff satisfaction and program direction require it. The major problem is to decide what to do about measuring and improving effectiveness. The chosen option is for a diversified plan of assisting field programs to attempt various techniques without advocating a single approach. As for measurement, one part of the strategy is to offer consultant productivity teams to selected programs who wish to be examined closely using several standards from case reports and to field interviews. Another approach will be to develop and test a self-assessment tool for local use without direct consultant intervention. A third strategy is to sponsor small meetings of field programs who have conducted assessments of their effectiveness to develop new methods. As for improvement, the strategy will be to fund a limited number of activities proposed by field programs related to increasing effectiveness. Here the impetus will come from the field. It is currently most important to experiment.

V. Measurement and Improvement of Effectiveness

This is the other part of the productivity formula. This issue focuses on how well the program uses available resources. Again, the need to maximize the impact of people and money is crucial, and again, there must be multiple strategies. Certainly, program consolidation, shared administrative functions and streamlining technologies are examples of current efforts. The chosen strategies are similar to those for the measurement and improvement of effectiveness. Demonstration projects and self-assessment tools will be the experimental works. Rather than discussion groups, however, the Project will make use of the currently operating mechanisms by publicizing them nationally. Again, the improvement strategy is to solicit proposals from the field. The Project will need the flexibility to try all avenues.

VI. Fundraising

The ability of a program to raise money for its work is indisputably critical. Fundraising is also an issue which has had considerable development in legal services. The current need is two-fold. First, information concerning techniques, such as creating foundations, establishing filing fee arrangements and passing direct state-funding statutes, is scattered. This data needs to be collected and made available. The main strategy is to put those interested in these techniques in contact with those experienced in the particular fundraising methods. It is essential that the work complements and not duplicates current efforts by others. Second, the specific money-raising method of interest from client trust accounts needs attention. While two states have put plans into action, over twenty others are in progress. In the first six months of Florida's voluntary program, the Bar Foundation collected over $165,000 from the trust funds of only 304 firms. Coordinated assistance with the private bar will ensure both that as many states as possible will put such plans into effect and that poor clients will receive the benefits. The chosen strategy is to co-sponsor a national training event to heighten national legitimacy, as well as to assess technical assistance needs. Further cooperative work would be planned.

Exhibit D

NATIONAL LEGAL
AID & DEFENDER
ASSOCIATION

1625 K STREET, N.W.
EIGHTH FLOOR
WASH., D.C. 20006
(202) 452-0620

LSC Regional Allocations

Boston	
Vermont Legal Aid	$ 1,617.00
Greater Boston Legal Services	1,713.00
Regional Office	2,000.00
Pine Tree Legal Assistance	500.00
Regional Office	500.00
New York	
NY Shared Services Corporation	2,500.00
Regional Office	2,700.00
Mid Hudson Legal Services	750.00
Western New York	7,525.00
Legal Services of the Virgin Islands	3,899.00
Western New York Programs	1,466.40
Western New York Consortium	532.00
Seattle	
Oregon Legal Services	3,000.00
Legal Services for S.E. Wyoming	500.00
Legal Services for S.E. Wyoming	435.00
Legal Aid Services of Multomah Bar Assn.	720.00
Evergreen Legal Services	2,460.00
Chicago Region	20,565.00
Philadelphia	
Law Coordination Center	8,527.00
Legal Services of New Jersey	8,527.00
Virginia	
Legal Services of Northern Virginia	10,000.00
W. Virginia Legal Services Plan	5,000.00
Legal Aid of Central Michigan	2,350.00
Legal Aid Society of Cincinnati	650.00
Atlanta Region	40,000.00
Denver	
Colorado Coalition for Legal Services	5,000.00
Colorado Coalition for Legal Services	10,347.00
California Indian Legal Services	1,800.00
DNA-Peoples legal Services	2,200.00

San Francisco

Legal Aid of San Mateo	$ 500.00
Legal Services of Northern California	1,500.00
Legal Aid Society of Alameda County	14,235.00

Exhibit E

NLADA MANAGEMENT PROJECT

Financial Report - 1/1/82-6/30/82

INCOME			
Balance forward 12/31/81		$1,038,678.77	
Project Directors Grant		1,815.03	
Interest (5/31/82)		13,961.64	$1,054,455.44
EXPENSES			
Overhead		$ 180,000.00	
Personnel			
Salaries	$23,549.92		
Fringe	9,840.66	33,390.58	
Office Administration			
Rent	$ 5,000.00		
Equipment	1,235.75		
Telephone	2,803.63		
Duplicating	609.18		
Printing	209.15		
Office Supllies	726.47		
Postage	1,299.81		
Delivery	55.55		
Pulbications	14.95	11,954.49	
Miscellaneous			
Personnel Recrut.	$ 2,045.21		
Moving Exp.	4,084.02	6,129.23	
Travel			
Policy Board	$13,553.28		
Staff	11,370.59	24,923.87	
Consultants			
Contracts	$ 8,958.52		
Travel	401.97	9,360.49	(265,758.66)
			$ 786,881.75

NATIONAL LEGAL
AID & DEFENDER
ASSOCIATION

1625 K STREET, N.W.
EIGHTH FLOOR
WASH., D.C. 20006
(202) 452-0620

NLADA MANAGEMENT PROJECT

Financial Report - 10/31/81-12/31/81

INCOME			
Legal Services Corporation			
10/31/81	$411,667.00		
11/30/81	238,333.00		
12/31/81	550,000.00	$1,200,000.00	
Interest accrued		25,097.00	$1,225,097.00
EXPENSES			
Salaries		$ 0.00	
Fringe		0.00	
Printing		46.00	
Delivery		4.10	
Duplicating		37.62	
Office Supplies		161.75	
Personnel Recruitment		771.47	
Staff Travel		513.47	
Policy Board Travel		1,129.68	
Registration		615.00	
LSC Regional Allocations *		166,667.00	(186,418.23)
Balance of Grant 12/31/81			$1,038,678.77

*Report on LSC Regional Allocations attached.

EXHIBIT D

NATIONAL LEGAL
AID & DEFENDER
ASSOCIATION

1625 K STREET, N.W.
EIGHTH FLOOR
WASH D.C. 20006
(202) 452-0620

LSC Regional Allocations

Boston	
Vermont Legal Aid	$ 1,617.00
Greater Boston Legal Services	1,713.00
Regional Office	2,000.00
Pine Tree Legal Assistance	500.00
Regional Office	500.00
New York	
NY Shared Services Corporation	2,500.00
Regional Office	2,700.00
Mid Hudson Legal Services	750.00
Western New York	7,525.00
Legal Services of the Virgin Islands	3,899.00
Western New York Programs	1,466.40
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Oregon Legal Services	3,000.00
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Legal Aid Services of Multomah Bar Assn.	720.00
Evergreen Legal Services	2,460.00
Chicago Region	20,565.00
Philadelphia	
Law Coordination Center	8,527.00
Legal Services of New Jersey	8,527.00
Virginia	
Legal Services of Northern Virginia	10,000.00
W. Virginia Legal Services Plan	5,000.00
Legal Aid of Central Michigan	2,350.00
Legal Aid Society of Cinncinati	650.00
Atlanta Region	40,000.00
Denver	
Colorado Coalition for Legal Services	5,000.00
Colorado Coalition for Legal Services	10,347.00
California Indian Legal Services	1,800.00
DNA-Peoples legal Services	2,200.00

San Francisco

Legal Aid of San Mateo	$ 500.00
Legal Services of Northern California	1,500.00
Legal Aid Society of Alameda County	14,235.00

Attachment #11

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NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
FINANCIAL STATEMENTS
FOR THE YEAR ENDED
DECEMBER 31, 1983
WITH COMPARATIVE TOTALS FOR 1982
WITH THE INDEPENDENT
AUDITORS' REPORT THEREON

—oo0oo—

LT
& Co

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
DECEMBER 31, 1983

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Balance Sheet	Exhibit A	1
Statement of Support, Revenue and Expenses and Changes in Fund Balances	Exhibit B	2
Statement of Changes in Financial Position	Exhibit C	3
Notes to Financial Statements		4
Supplemental Schedules		

Certified Public Accountants
Lucas,
Tucker & Co.
733 15TH STREET, N.W., SUITE 926, WASHINGTON, D.C. 20005 (202) 659-2911

March 29, 1984

INDEPENDENT AUDITORS' REPORT

The Board of Directors
National Legal Aid and Defender Association

We have examined the balance sheet of the National Legal Aid and Defender Association as of December 31, 1983, and the related statements of support, revenue and expenses and changes in fund balances and changes in financial position for the year then ended. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances. The financial statements of the National Legal Aid and Defender Association for the year ended December 31, 1982, were examined by other auditors whose report dated February 23, 1983, expressed an unqualified opinion on those statements.

In our opinion, the financial statements referred to above present fairly the financial position of the National Legal Aid and Defender Association as of December 31, 1983, and the results of its operations and changes in its financial position for the year then ended, in conformity with generally accepted accounting principles which, except for the change, with which we concur, in the method of recognizing restricted contract/grant revenue as described in Note 3 to the financial statements, have been applied on a basis consistent with that of the preceding year.

Our examination was made for the purpose of forming an opinion on the basic financial statements taken as a whole. The supplemental schedules are presented for purposes of additional analyses and are not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in the examination of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

Lucas, Tucker & Co.

EXHIBIT A

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
BALANCE SHEET

	DECEMBER 31, 1983	DECEMBER 31, 1982 (Note 6)
ASSETS		
Current:		
Cash on hand and in banks	$ 19,933	$ 55,490
Savings	3,157	-
Investments (Note 2)	226,904	940,259
Accounts receivable (Note 4)	66,700	63,803
Prepaid expenses and advances	15,045	35,627
Total Current Assets	331,739	1,095,179
Property: (Note 1)		
Furniture, fixtures and equipment at cost, less accumulated depreciation of $16,778 for 1983 and $13,385 for 1982	7,156	12,046
Total Assets	$338,895	$1,107,225
LIABILITIES AND FUND BALANCES		
Liabilities:		
Current Liabilities:		
Accounts payable	$175,168	$ 21,431
Payroll withholdings	132	5,526
Total Current Liabilities	175,300	26,957
Other Liabilities:		
Accrued annual leave	21,688	30,066
Deferred revenue (Note 3)	110,924	-
Total Liabilities	307,912	57,023
Fund Balances: (Exhibit B)		
Unrestricted	(561,765)	(169,605)
Restricted		
Legal Services Corporation-Interest	211,333	163,637
Legal Service Corporation-Grant	374,259	1,017,950
The Edna McConnell Clark Foundation	-	(99)
Defender Management Information Systems IV	-	10,215
National Criminal Defense Systems Survey	-	16,058
	585,592	1,207,761
Property	7,156	12,046
Total Fund Balances	30,983	1,050,202
Total Liabilities and Fund Balances	$338,895	$1,107,225

The accompanying notes are an integral part of this statement.

EXHIBIT B

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
STATEMENT OF SUPPORT, REVENUE AND EXPENSES AND CHANGES IN FUND BALANCES
YEAR ENDED DECEMBER 31, 1983
(WITH COMPARATIVE TOTAL FOR 1982)

	UNRESTRICTED		RESTRICTED								TOTAL ALL FUNDS	
	Operating Fund	Property Fund	The Edna McConnell Clark Foundation	Legal Services Corporation Programs	Ford Foundation Program	National Defender Management Information Systems IV	Criminal Defense Systems Survey Program	Case Weighted Project	Texas Justice Project	Total	1983	1982 (Note 6)
Support and Revenue:												
Dues and subscriptions	$ 414,603	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 414,603	$ 464,148
Contributions	116,598	-	-	-	-	-	-	-	-	-	116,598	118,618
American Bar Endowment Grant	125,000	-	-	-	-	-	-	-	-	-	125,000	200,000
Printed materials	15,898	-	-	-	-	-	-	-	-	-	15,898	17,343
Conference	121,116	-	-	-	-	-	-	-	-	-	121,116	164,452
Technical assistance	26,668	-	-	-	-	-	-	-	-	-	26,668	22,575
Grants and contracts	-	-	141,285	-	14,440	-	6,882 ✓	17,422	-	180,029	180,029	1,920,498
Interest	6,252	-	-	47,696	-	-	-	-	-	47,696	53,948	148,940
Other	1,063	-	-	-	-	-	-	-	-	-	1,063	2,033
Total	827,198	-	141,285	47,696	14,440	-	6,882	17,422	-	227,725	1,054,923	3,058,607
Expenses												
Administration and Board	383,834	-	-	-	-	-	-	-	-	-	383,834	259,164
Civil Division	199,244	-	-	-	-	-	-	-	-	-	199,244	213,772
Defender Division	183,926	-	-	-	-	-	-	-	-	-	183,926	172,511
Accounting	89,986	-	-	-	-	-	-	-	-	-	89,986	94,067
Membership and conference	307,651	-	-	-	-	-	-	-	-	-	307,651	408,357
Governmental relations	88,686	-	-	-	-	-	-	-	-	-	88,686	188,454
Grant	-	-	128,418	643,691	11,940	7,747	16,824	11,113	1,082	820,815	820,815	847,009
Total Direct Cost	1,253,327	-	128,418	643,691	11,940	7,747	16,824	11,113	1,082	820,815	2,074,142	2,183,354
Overhead allocated to grants	(30,173)	-	12,768	-	2,500	2,480	6,116	6,309	-	30,173	-	-
Total expenditures	1,223,154	-	141,186	643,691	14,440	10,227	22,940	17,422	1,082	850,988	2,074,142	2,183,354
Excess/(Deficiency) of revenues	-	-	-	-	-	-	-	-	-	-	-	-
Over expenses	(395,956)	-	99	(595,995)	-	(10,227)	(16,058)	-	(1,082)	(623,263)	(1,019,219)	875,253
Fund balances, beginning of year	(169,605)	12,046	(99)	1,181,587	-	10,215	16,058	-	-	1,207,761	1,050,202	174,949
Transfers (Note 8)	3,796	(4,890)	-	-	-	12	-	-	1,082	1,094	-	-
Fund balances, end of year	$ (561,765)	$ 7,156	$ -	$ 585,592	$ -	$ -	$ -	$ -	$ -	$ 585,592	$ 30,983	$1,050,202

The accompanying notes are an integral part of this statement.

EXHIBIT C

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
STATEMENT OF CHANGES IN FINANCIAL POSITION

	FOR THE YEARS ENDED DECEMBER 31, 1983	FOR THE YEARS ENDED DECEMBER 31, 1982 (Note 6)
Financial resources were provided by:		
Support and revenue over (under) expenses (Exhibit B)	$(1,019,219)	$ 875,253
Add/(Deduct) items not affecting working capital:		
Depreciation and disposition of fixed assets	5,540	6,058
Resources provided by operations	(1,013,679)	881,311
Increase/(decrease) in accrued annual leave	(8,378)	
Increase/(decrease) in deferred revenue	110,924	(1,649,019)
Total resources provided	(911,133)	(767,708)
Financial resources were used for:		
Acquisition of furniture, fixture and equipment	650	1,611
Net (decrease) in working capital	$ (911,783)	$(769,319)

Reconciliation of Net (Decrease)/Increase in Working Capital

	December 31, 1983		December 31, 1982	
Current assets	$331,739		$1,095,179	
Current liabilities	175,300		26,957	
Working capital		$156,439		$1,068,222
Net (decrease) increase in working capital		$(911,783)		$ (769,319)

The accompanying notes are an integral part of this statement.

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 1983

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

a. Organization

The National Legal Aid and Defender Association (NLADA) was organized in October 1911, to engage in such exclusively charitable, literary and educational activities as will promote and develop legal aid and defender work; to encourage the formation of new legal aid and defender organizations, wherever they may be needed, whose purpose shall be to render legal services without charge, if necessary, to all who may appear to be entitled thereto, and who are unable to procure such assistance elsewhere, and to promote measures for their protection; to provide a central body, with defined duties and powers for the guidance of legal aid and defender services; and to cooperate with the judiciary, the bar and all organizations interested in the administration of justice.

b. Income Taxes

NLADA is exempt from federal income taxes under Internal Revenue Code Section 501 (c) (3). It is also exempt from District of Columbia income taxes and, accordingly, has made no provisions for federal or local income taxes.

c. Grant and Contract Support

NLADA records revenue to the extent of the grant amount awarded by the Legal Services Corporation (LSC); expenses are recorded when incurred. Funds remaining unused at the end of an accounting period are carried in the applicable fund balance.

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 1983

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

c. Grant and Contract Support (Continued)

Other restricted grants and contract funds are recognized as support when eligible costs are incurred. A receivable is recognized to the extent contract support earned exceeds cash advances. Conversely, a liability is recorded when contract cash advances exceed support earned.

d. Contributions

Contributions represent cash donations to NLADA from private organizations and individuals and are recognized as support when received.

e. Property

Fixed assets are capitalized at cost and depreciated using the straight-line method over the estimated service lives of the assets.

NOTE 2. INVESTMENTS

Investments at December 31, 1983 consist of the following:

Description	Amount
International Business Machines Corporation 100 shares common stock Market value 12/31/83-$12,200	$ 6,700
Merrill Lynch Ready Asset Trust	60,204
Certificate of Deposit Maturity date 5/23/84	100,000
Certificate of Deposit Maturity date 4/11/84	60,000
	$226,904

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 1983

NOTE 3. RECOGNITION OF GRANT/CONTRACT REVENUE

Prior to 1983, NLADA recognized revenue from grants and/or contracts when funds were received or to the extent of any excess expenditures over receipts, provided there were unused funds. Beginning in 1983, restricted revenue is recognized only to the extent that allowable expenditures are incurred - See note 1c. Monies received in advance or in excess of allowable incurred expenses are recorded as deferred revenue as follows:

American Bar Endowment Contribution	$ 50,000
Ford Foundation	25,560
The Edna McConnell Clark Foundation	9,436
U. S. Department of Justice	25,928
	$110,924

NOTE 4. ACCOUNTS RECEIVABLE

Accounts receivable include $31,882 due from an organization which had contracted NLADA to do a survey on Criminal Defense Systems. The organization cancelled the contract after NLADA had incurred expenses. NLADA is seeking reimbursement for the expenses incurred under the contract.

NOTE 5. COMMITMENTS

NLADA has an office lease agreement requiring annual rental fees of $114,626 for the twelve month period ending May 31, 1985. An agreement has been entered into by NLADA which requires annual rental fees of $186,663 for the first five years and $212,709 from the sixth year through 1995. Rental fees have been waived for the twelve month ending May 31, 1984. Sublease provisions exist under both lease agreements.

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 1983

NOTE 6. 1982 FINANCIAL INFORMATION

Summary comparative data for 1982 have been presented in the accompanying financial statements to provide an understanding of changes in NLADA's financial position and operations. Prior year totals by fund type have not been presented in each of the statements because inclusion of a second set of multi-column statements would make the financial information unduly complex and difficult to read.

NOTE 7. PENSION PLAN

NLADA has a defined contribution pension plan which is fully funded with the Aetna Life Insurance and Annuity Company. The plan covers all permanent employees with at least three months of service. Pension expense for 1983 was approximately $20,692.

NOTE 8. INTERFUND TRANSFERS

Restricted fund operating deficits are absorbed by the unrestricted fund. For 1983, the restricted fund operating deficit was $1,094.

Property transactions, acquisitions, depreciation, and dispositions, are recorded in the fund which derives benefit from utilization. The net of all property transactions is transferred to the property fund at year end.

NOTE 9. MANAGEMENT'S PLAN FOR IMPROVED OPERATING RESULTS

Management has implemented a strategy to enhance the financial operating results of NLADA. Procedures were established in 1983 to improve the balance sheet by reducing the prepaid expenses and advances and expensing any uncollectible accounts receivable. For 1983, NLADA liquidated $27,321 in advances to employees and board members for program travel outstanding for over a year. Management expensed uncollectible accounts receivable of $14,799, unrecorded postage usage of $3,049, and interest and penalties of $2,535.

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 1983

NOTE 9. **MANAGEMENT'S PLAN FOR IMPROVED OPERATING RESULTS** (Continued)

Procedures have been initiated in 1984 to limit expenditures and to liquidate accounts payable. Of the $175,168 outstanding obligations at December 31, 1983, $109,231 had been liquidated at March 29, 1984, representing a reduction of approximately 62 percent.

NOTE 10. **1984 BUDGETARY PLAN**

NLADA has implemented a budgetary plan for 1984 designed to reduce approximately 75% of the deficit fund balance at December 31, 1983. This plan provides for revenues and support of $1,006,800 and expenses of $825,000, resulting in an excess of revenue over expenses of $181,800. Additionally, NLADA has been successful in obtaining special revenue of $250,000 as of March 29, 1984, which was orginally committed in fiscal year 1983.

SCHEDULE 1

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
SCHEDULE OF OPERATING FUND EXPENSES
BY FUNCTIONAL CATEGORY
FOR THE YEAR ENDED DECEMBER 31, 1983
(WITH COMPARATIVE TOTALS FOR 1982)

	Administration and Board	Civil Division	Defender Division	Accounting	Membership and Conference	Governmental Relations	Totals	
							1983	1982
Expenses:								
Salaries and wages	$116,769	$104,543	$104,839	$48,573	$146,015	$51,790	$ 572,529	$ 634,485
Fringe benefits	20,070	16,192	19,801	4,646	23,383	6,061	90,153	102,954
Consultants	27,041	19,677	27,128	21,494	31,936	10,187	137,463	38,314
Travel	99,658	28,911	8,481	1,280	10,080	4,131	152,541	123,537
Space, office and storage	46,695	-	-	125	20	-	46,840	103,235
Equipment leased and maintenance	2,349	1,987	2,531	346	2,766	326	10,305	15,498
Telephone	9,226	12,121	5,390	812	7,533	7,877	42,959	49,623
Conference	20	150	-	-	39,477	-	39,647	62,336
Office supplies	10,609	130	264	148	1,659	406	13,216	15,243
Mailing and postage delivery	4,107	4,839	4,116	525	17,968	2,992	34,547	34,104
Printing	3,366	992	6,637	30	10,776	2,512	24,313	60,001
Duplicating	3,150	3,572	2,321	574	2,261	1,250	13,128	17,850
Computer services	170	160	45	7,775	12,753	45	20,948	19,461
Insurance	3,020	610	813	-	-	-	4,443	2,305
Publication and subscription	590	930	860	20	316	1,063	3,779	9,555
Dues and registrations	522	985	140	-	250	-	1,897	6,167
Depreciation	3,204	46	412	412	458	46	4,578	6,058
Grants to other organizations	14,498	-	-	-	-	-	14,498	32,073
Bad debts	11,497	3,302	-	-	-	-	14,799	-
Miscellaneous	7,273	97	148	3,226	-	-	10,744	3,546
Totals	$383,834	$199,244	$183,926	$89,986	$307,651	$88,686	$1,253,327	$1,336,345

SCHEDULE 2

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
SCHEDULE OF GRANT EXPENSES
BY FUNCTIONAL CATEGORY
FOR THE YEAR ENDED DECEMBER 31, 1983
(WITH COMPARATIVE TOTALS FOR 1982)

	Ford Grant	AS/SAP Grant	LLS Programs	Defender Survey	DMUS IV	Texas Justice	Case Weighted	Totals	
								1983	1982
Expenses:									
Salaries	$ -	$ 32,818	$ 85,287	$13,700	$ 3,041	$ -	$ 8,632	$143,478	$201,914
Fringe benefits	-	7,234	12,754	1,002	296	259	893	22,438	32,143
Sub-contracts	-	64,660	-	-	-	-	-	64,860	184,570
Consultants	9,726	2,313	328,193	-	540	-	-	340,772	171,564
Travel	1,220	11,766	154,177	181	919	674	510	169,447	154,938
Space, office	750	2,333	5,673	1,119	456	-	658	10,989	24,719
Equipment leased and maintenance	14	1,686	2,891	90	-	-	14	4,695	5,671
Telephone	167	1,921	12,838	298	349	-	237	15,810	22,090
Office supplies	19	935	2,360	153	279	-	17	3,763	8,000
Mailing, postage and delivery	44	346	7,008	-	58	9	-	7,465	8,180
Printing	-	136	25,945	-	1,663	-	59	27,803	14,696
Duplicating	-	1,017	4,022	281	146	-	-	5,466	5,900
Dues and registration	-	-	1,180	-	-	-	45	1,225	2,637
Insurance	-	406	406	-	-	-	-	812	1,424
Publications and subscription	-	-	208	-	-	-	-	208	585
Computer Services-General	-	-	-	-	-	-	48	48	-
Miscellaneous	-	847	749	-	-	140	-	1,736	7,978
Total	$11,940	$128,418	$643,691	$16,824	$ 7,747	$1,082	$11,113	$820,815	$847,009

SCHEDULE 3

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
SCHEDULE OF LEGAL SERVICES CORPORATION PROGRAM EXPENSES
FOR THE YEAR ENDED DECEMBER 31, 1983
(WITH COMPARTIVE TOTALS FOR 1982)

	MAP/ TAP	Leadership Development	Standards Development	Library Manual	Access To Justice	Public Affairs Training	Totals	
							1983	1982
Expenses:								
Salaries and wages	$ 71,023	$ 352	$ -	$ -	$13,912	$ -	$ 85,287	$114,200
Fringe benefits	11,797	7	-	-	950	-	12,754	17,286
Subcontracts	-	-	-	-	-	-	-	119,000
Consultants	255,386	67,946	4,861	-	-	-	328,193	165,848
Travel	123,324	25,384	5,211	-	258	-	154,177	134,703
Space, office	5,673	-	-	-	-	-	5,673	17,754
Equipment leased and maintenance	2,321	208	190	172	-	-	2,891	4,701
Telephone	9,892	2,206	-	42	698	-	12,838	15,047
Office supplies	1,472	404	288	196	-	-	2,360	5,974
Mailing and postage	3,956	768	-	946	356	982	7,008	6,156
Printing	18,867	135	1,197	5,206	-	540	25,945	13,670
Duplicating	2,509	1,286	15	-	187	25	4,022	3,732
Dues and registration	-	335	180	665	-	-	1,180	2,637
Insurance	406	-	-	-	-	-	406	712
Publication and subcriptions	60	148	-	-	-	-	208	585
Miscellaneous	739	10	-	-	-	-	749	7,978
Total Direct Expenditures	$507,425	$99,189	$11,942	$7,227	$16,361	$1,547	$643,691	$629,983

Attachment #12

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION

AUDIT REPORT

- - - - -

December 31, 1982

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION

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MEMBERS OF
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MEMPHIS
JACKSON
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BIRMINGHAM

The Board of Directors
National Legal Aid and Defender
  Association
Washington, D.C.

We have examined the balance sheet of the National Legal Aid and Defender Association as of December 31, 1982 and 1981 and the related statements of income, expenditures, transfers and changes in fund balances for the years then ended. Our examinations were made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the financial statements referred to above present fairly the financial position of the National Legal Aid and Defender Association as of December 31, 1982 and 1981 and its income, expenditures, transfers and changes in fund balances for the years then ended, in conformity with generally accepted accounting principles applied on a consistent basis.

Our examinations were made primarily for the purpose of formulating the opinion stated in the preceding paragraph. The supplemental schedules included in this report, although not considered necessary for a fair presentation of financial position, results of operations, and changes in fund balances, have been subjected to the auditing procedures applied in the examination of the basic financial statements. In our opinion, the supplemental schedules are fairly stated when considered in conjunction with the basic financial statements.

February 23, 1983

Banks, Finley, White & Co.
BANKS, FINLEY, WHITE & CO.

BALANCE SHEET

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
BALANCE SHEET
December 31, 1982
(With Comparative Totals for 1981)

	1982	1981
ASSETS		
Unrestricted Operating Fund		
Cash	$ 55,490	49,513
Accounts Receivable	38,803	22,210
Investment in Securities	6,700	6,700
Prepaid Expenses and Advances	35,627	30,481
Furniture and Equipment (net of $7,218 accumulated depreciation in 1981 and $13,385 in 1982) (NOTE 1)	12,046	16,602
Total Unrestricted Operating Fund	148,666	125,506
Restricted Funds		
The Edna McConnell Clark Foundation		
Interfund Receivable	-	21,232
Total	-	21,232
Legal Services Corporation		
Cash	-	3
Interest Receivable	-	19,557
Investments	933,559	1,911,844
Interfund Receivable	248,028	80,719
Total	1,181,587	2,012,123
Defender Management Information Systems IV		
Cash	-	17,035
Interfund Receivable	10,215	-
Total	10,215	17,035
National College for Criminal Defense		
Interfund Receivable	-	3,222
Total	-	3,222
National Criminal Defense Systems Survey		
Accounts Receivable	25,000	-
Total	25,000	-
Total Restricted Funds	1,216,802	2,053,612
Total All Funds	$1,365,468	2,179,118

The notes to the financial statements are an integral part of the statements.

EXHIBIT A

	1982	1981
LIABILITIES AND FUND BALANCES		
Unrestricted Operating Fund		
Bank Overdraft	-	$ 129,140
Accounts Payable	21,431	90,881
Payroll Withholdings and Accruals	35,592	29,956
Interfund Payable	249,202	89,863
Fund Balance	(157,559)	(214,334)
Total Unrestricted Operating Fund	148,666	125,506
Restricted Funds		
The Edna McConnell Clark Foundation		
Interfund Payable	99	-
Fund Balance	(99)	21,232
Total	-	21,232
Legal Services Corporation		
Unearned Income	-	1,649,019
Fund Balance	1,181,587	363,104
Total	1,181,587	2,012,123
Defender Management Information Systems IV		
Interfund Payable	-	15,310
Fund Balance	10,215	1,725
Total	10,215	17,035
National College for Criminal Defense		
Fund Balance	-	3,222
Total	-	3,222
National Criminal Defense Systems Survey		
Interfund Payable	8,942	-
Fund Balance	16,058	-
Total	25,000	-
Total Restricted Funds	1,216,802	2,053,612
Total All Funds	1,365,468	$ 2,179,118

STATEMENT OF INCOME, EXPENDITURES, TRANSFERS AND CHANGES IN FUND BALANCES

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
STATEMENT OF INCOME, EXPENDITURES, TRANSFERS AND CHANGES IN FUND BALANCES
Year Ended December 31, 1982
(With Comparative Totals for 1981)

	Unrestricted	Restricted	
	Operating Fund	The Edna McConnell Clark Foundation Program	Legal Services Corporation Programs
Income			
Dues	$ 464,148	-	-
Contributions	118,618	-	-
American Bar Endowment Grant	200,000	-	-
Printed Materials - Publications	17,343	-	-
Interest	10,400	-	138,540
Annual Conference	164,452	-	-
LSC Conference	-	-	-
Technical Assistance	22,575	-	-
Other	1,868	-	165
Grants	-	96,000	1,654,019
Total Income	999,404	96,000	1,792,724
Expenditures			
Administration and Board	259,164	-	-
Civil Division	213,772	-	-
Defender Division	172,511	-	-
Accounting	94,087	-	-
Membership and Development	224,101	-	-
Communications	115,138	-	-
Governmental Relations	73,316	-	-
Conference	184,256	-	-
Grant	-	111,744	629,983
Total Direct Costs	1,336,345	111,744	629,983
Overhead Allocated to Grants	(390,494)	5,587	344,258
Total Expenditures	945,851	117,331	974,241
Excess (Deficiency) of Revenues over Expenditures	53,553	(21,331)	818,483
Transfer of Fund Balances	3,222	-	-
Excess (Deficiency) of Revenues and Transfers over Expenditures	56,775	(21,331)	818,483
Beginning Fund Balances (Deficit)	(214,334)	21,232	363,104
Ending Fund Balances (Deficit)	$(157,559)	(99)	1,181,587

EXHIBIT B

Restricted				1981 Totals	
National Criminal Defense Systems Survey Program	Defender Management Information Systems IV	National College For Criminal Defense Program	Total	Unrestricted	Restricted
-	-	-	-	470,789	$ -
-	-	-	-	122,710	-
-	-	-	-	150,000	-
-	-	-	-	21,706	-
-	-	-	138,540	6,363	25,097
-	-	-	-	138,161	15,494
-	-	-	-	5,767	-
-	-	-	-	40,383	-
-	-	-	165	49,022	-
70,000	100,479	-	1,920,498	-	1,283,102
70,000	100,479	-	2,059,203	1,004,901	1,323,693
-	-	-	-	221,791	-
-	-	-	-	217,609	-
-	-	-	-	203,187	-
-	-	-	-	78,413	-
-	-	-	-	196,748	-
-	-	-	-	97,035	-
-	-	-	-	51,594	-
-	-	-	-	187,084	-
39,663	65,619	-	847,009	-	929,633
39,663	65,619	-	847,009	1,253,461	929,633
14,279	26,370	-	390,494	(85,808)	85,808
53,942	91,989	-	1,237,503	1,167,653	1,015,441
16,058	8,490	-	821,700	(162,752)	308,252
-	-	(3,222)	(3,222)	(13,838)	13,838
16,058	8,490	(3,222)	818,478	(176,590)	322,090
-	1,725	3,222	389,283	(37,744)	67,193
16,058	10,215	-	1,207,761	(214,334)	$ 389,283

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
NOTES TO THE FINANCIAL STATEMENTS
December 31, 1982

NOTE 1 - Summary of Significant Accounting Policies

A. The National Legal Aid and Defender Association was formed October 1911 for the purpose of engaging in such exclusively charitable, literary and educational activities that will encourage the formation of new legal aid and defender organizations, wherever they may be needed.

B. Restricted Fund - Grants and/or contracts that are for restricted activities have been accounted for separately. Unexpended grant and/or contract funds are reflected in applicable fund balances. Income from grants and/or contracts is recognized when received or to the extent of any excess expenditures over receipts, providing there are unused funds, with the exception of programs funded by the Legal Services Corporation. See NOTE 3 for details on the recognition of income on programs funded by Legal Services Corporation. In accordance with requirements established by the Legal Services Corporation, income received from the Corporation must be prorated over the terms of the awards. Schedule 3 contains a summary of income and expenditures related to programs funded by the Corporation.

C. Unrestricted Funds - Income from all sources are recognized when received. Expenses are recognized when incurred.

D. Furniture and Equipment - Purchases of furniture and equipment are recorded at cost and depreciated over their estimated useful lives. The straight-line method of depreciation is used.

E. Overhead Allocation - Overhead costs are allocated to applicable grants and/or contracts in accordance with grant and/or contract agreements.

F. Federal Income Taxes - The Association is exempt from Federal income taxes under Section 501(c)(3) of the Internal Revenue Code.

G. Pension Plan - The Association has a defined contribution pension plan which is fully funded with the National Health and Welfare Retirement Association. The plan covers all employees twenty-five (25) years of age or older with at least three years of service. Pension expense for 1982 was approximately $26,8[illegible]

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
NOTES TO THE FINANCIAL STATEMENTS (CONT'D)
December 31, 1982

NOTE 2 - Investments - The Association has investments in both the Unrestricted Operating Fund and the Legal Services Corporation Restricted Fund. The investment in the Unrestricted Operating Fund consists of one hundred (100) shares of stock in the International Business Machines Corporation. The quoted market value at December 31, 1982 was approximately $96.00 per share. A summary of the investments recorded in the Legal Services Corporation Restricted Fund is presented below.

Holder	Type Of Investment	Amount	Maturity Date
Merrill Lynch	Ready Asset Trust	$ 33,559	On Demand
Merrill Lynch	Certificates of Deposit	300,000	March 1983
Merrill Lynch	Certificates of Deposit	600,000	January 1983
	Total	$933,559	

NOTE 3 - Lease Agreement - The Association has a five (5) year noncancellable lease, effective January 1, 1980, for the rental of office space. Terms of the lease require annual payments of approximately $102,000 per year and provide for annual escalations based on increases in the Consumer Price Index.

SCHEDULE 1

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
SUMMARY OF UNRESTRICTED OPERATING FUND
EXPENDITURES BY FUNCTIONAL CATEGORY
Year Ended December 31, 1982
(With Comparative Totals for 1981)

	Administration and Board	Civil Division	Defender Division	Accounting	Membership and Development	Communication	Governmental Relations	Conference	Total	1981 Total
laries and Wages	$ 93,177	132,476	92,038	43,427	111,776	55,954	47,851	57,786	634,485	$ 551,600
inge Benefits	17,683	19,795	13,575	7,849	20,715	8,386	4,925	10,026	102,954	78,169
nsultants	10,318	5,261	2,950	13,003	1,422	1,203	-	4,157	38,314	59,760
avel	72,399	10,679	9,460	2,380	11,127	1,254	2,328	13,910	123,537	111,224
ace, Office and Storage	20,118	15,858	12,736	11,057	17,244	10,497	4,622	11,103	103,235	102,163
uipment Leased and Maintenance	1,917	2,256	2,545	742	2,344	3,894	603	1,197	15.498	12,396
lephone	4,965	10,279	5,882	2,533	7,578	3,974	10,123	4,289	49,623	36,499
nference	2,620	2,472	5,357	-	-	-	-	51,887	62,336	78,450
fice Supplies	2,087	1,330	948	1,264	2,580	2,544	872	3,618	15,243	19,694
iling and Postage	3,328	4,715	1,580	631	5,045	9,738	313	8,754	34,104	41,114
inting	2,098	2,991	3,177	296	21,071	14,805	18	15,545	60,001	55,580
plicating	3,523	4,296	3,576	1,098	2,372	1,257	737	991	17,850	18,677
mputer Services	30	60	120	8,636	10,425	55	15	120	19,461	19,095
surance	1,505	400	400	-	-	-	-	-	2,305	2,966
blication and Subscription	338	618	536	269	7,228	238	308	20	9,555	7,047
es and Registrations	2,543	-	365	-	1,724	810	195	530	6 167	8,896
preciation	3,307	79	526	555	904	529	79	79	6,058	4,731
ants to other Organizations	15,391	-	16,682	-	-	-	-	-	32,073	37,963
scellaneous	1,817	207	58	347	546	-	327	244	3,546	7,435
Total	$259,164	213,772	172,511	94,087	224,101	115,138	73,316	184,256	1,336,345	$1,253,461

SCHEDULE 2

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
SUMMARY OF GRANT EXPENDITURES
BY FUNCTIONAL CATEGORY

Year Ended December 31, 1982
(With Comparative Totals for 1981)

	The Edna McConnell Clark Foundation Program	Legal Services Corporation Programs	National Criminal Defense Systems Survey Program	Defender Management Information Systems IV	National College For Criminal Defense Program	Total	1981 Total
Salaries and Wages	$ 21,898	114,200	27,395	38,421	-	201,914	$185,415
Fringe Benefits	4,924	17,286	4,523	5,410	-	32,143	27,560
Consultants	1,672	165,848	1,294	2,750	-	171,564	35,616
Travel	9,962	134,703	169	10,104	-	154,938	77,940
Subgrant Awards/Centers	65,570	119,000	-	-	-	184,570	505,427
Space, Office	1,916	17,754	2,687	2,362	-	24,719	9,156
Equipment Leased and Maintenance	747	4,701	76	147	-	5,671	2,704
Telephone	2,888	15,047	1,301	2,854	-	22,090	10,046
Office Supplies	688	5,974	948	390	-	8,000	2,846
Mailing and Postage	204	6,156	537	1,283	-	8,180	4,282
Printing	-	13,670	-	1,026	-	14,696	37,266
Duplicating	919	3,732	733	516	-	5,900	4,105
Dues and Registration	-	2,637	-	-	-	2,637	17,355
Insurance	356	712	-	356	-	1,424	370
Publications and Subscriptions	-	585	-	-	-	585	3,273
Miscellaneous	-	7,978	-	-	-	7,978	6,272
Total	$111,744	629,983	39,663	65,619	-	847,009	$929,633

SCHEDULE 3

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
SUMMARY OF LEGAL SERVICES CORPORATION PROGRAMS
Year Ended December 31, 1982

	MAP/ TAP	Leadership Development	Standards Development	Library Manual	Private Bar Delivery	Access To Justice	Public Affairs Training	Law Firm Resources	Resources Development	Total
Grant Income										
Legal Services Corporation	$1,027,692	400,000	65,846	16,000	129,231	5,000	9,000	1,250	-	$1,654,019
Total Grant Income	1,027,692	400,000	65,846	16,000	129,231	5,000	9,000	1,250	-	1,654,019
Expenditures										
Salaries and Wages	63,212	2,063	468	-	-	48,316	141	-	-	114,200
Fringe Benefits	8,508	-	-	-	-	8,778	-	-	-	17,286
Subcontracts	-	-	-	-	119,000	-	-	-	-	119,000
Consultants	144,715	12,961	1,981	1,819	-	-	2,462	-	1,910	165,848
Travel	66,740	49,102	9,328	-	-	3,907	303	2,039	3,284	134,703
Space, Office	11,012	-	-	-	-	6,742	-	-	-	17,754
Equipment Leased and Maintenance	4,524	47	48	39		43	-	-	-	4,701
Telephone	8,210	2,857	213	193	-	3,574	-	-	-	15,047
Office Supplies	3,788	1,182	48	516	-	440	-	-	-	5,974
Mailing and Postage	2,622	298	1,342	210	-	956	536	-	192	6,156
Printing	822	757	4,859	3,239	-	-	3,592	-	401	13,670
Duplicating	1,881	312	28	-	-	1,494	17	-	-	3,732
Fees and Registration	370	2,092	175	-	-	-	-	-	-	2,637
Insurance	356	-	-	-	-	356	-	-	-	712
Publications and Subscriptions	90	-	-	-	-	495	-	-	-	585
Miscellaneous	4,549	-	-	3,414	-	-	15	-	-	7,978
Total Direct Expenditures	$ 321,399	71,671	18,490	9,430	119,000	75,101	7,066	2,039	5,787	$ 629,983

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION

AUDIT REPORT

December 31, 1981

BANKS, FINLEY, WHITE & CO.
CERTIFIED PUBLIC ACCOUNTANTS

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION

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Summary of Grant Expenditures by Functional Category 2

Summary of Legal Services Corporation Programs 3

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The Board of Directors
National Legal Aid and Defender
Association
Washington, D.C.

We have examined the balance sheets of the National Legal Aid and Defender Association as of December 31, 1981 and 1980 and the related statements of income, expenditures, transfers and changes in fund balances for the years then ended. Our examinations were made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the financial statements referred to above present fairly the financial position of the National Legal Aid and Defender Association as of December 31, 1981 and 1980 and its income, expenditures, transfers and changes in fund balances for the years then ended, in conformity with generally accepted accounting principles applied on a consistent basis.

Our examinations were made primarily for the purpose of formulating the opinion stated in the preceding paragraph. The supplemental schedules included in this report, although not considered necessary for a fair presentation of financial position, results of operations, and changes in fund balances, have been subjected to the auditing procedures applied in the examination of the basic financial statements. In our opinion, the supplemental schedules are fairly stated when considered in conjunction with the basic financial statements.

February 26, 1982

Banks, Finley, White & Co.
Banks, Finley, White & Co

BALANCE SHEET

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
BALANCE SHEET
December 31, 1981
(With Comparative Totals for 1980)

	1981	1980
ASSETS		
Unrestricted Operating Fund		
Cash	$ 49,513	16,459
Accounts Receivable	22,210	430
Investment in Securities (NOTE 2)	6,700	6,700
Prepaid Expenses and Advances	30,481	13,198
Furniture and Equipment (net of $2,442 accumulated depreciation in 1980 and $7,218 in 1981) (NOTE 1)	16,602	14,353
Total Unrestricted Operating Fund	125,506	51,140
Restricted Funds		
The Edna McConnell Clark Foundation		
Interfund Receivable	21,232	-
Total	21,232	-
Legal Services Corporation		
Cash	3	17,995
Interest Receivable	19,557	-
Investments (NOTE 2)	1,911,844	-
Interfund Receivable	80,719	14,867
Total	2,012,123	32,862
Appellate Defender Development Project		
Interfund Receivable	-	34,331
Total	-	34,331
Defender Management Information Systems II		
Cash	-	409
Grant Receivable	-	4,142
Total	-	4,551
Defender Management Information Systems III		
Grant Receivable	-	13,077
Total	-	13,077
Defender Management Information Systems IV		
Cash	17,035	-
Total	17,035	-
National College for Criminal Defense		
Interfund Receivable	3,222	-
Total	3,222	-
Total Restricted Funds	2,053,612	84,821
Total All Funds	$2,179,118	135,961

EXHIBIT A

	1981	1980
LIABILITIES AND FUND BALANCES		
Unrestricted Operating Fund		
Bank Overdraft	129,140	$ -
Accounts Payable	90,881	24,710
Payroll Withholdings and Accruals	29,956	32,604
Interfund Payable	89,863	31,570
Fund Balance	(214,334)	(37,744)
Total Unrestricted Operating Fund	125,506	51,140
Restricted Funds		
The Edna McConnell Clark Foundation		
Fund Balance	21,232	-
Total	21,232	-
Legal Services Corporation		
Unearned Income	1,649,019	-
Fund Balanc	363,104	32,862
Total	2,012,123	32,862
Appellate Defender Development Project		
Fund Balance	-	34,331
Total	-	34,331
Defender Management Information Systems II		
Interfund Payable	-	4,551
Total	-	4,551
Defender Management Information Systems III		
Interfund Payable	-	13,077
Total	-	13,077
Defender Management Information Systems IV		
Interfund Payable	15,310	-
Fund Balance	1,725	-
Total	17,035	-
National College for Criminal Defense		
Fund Balance	3,222	-
Total	3,222	-
Total Restricted Funds	2,053,612	84,821
Total All Funds	2,179,118	$ 135,961

STATEMENT OF INCOME, EXPENDITURES, TRANSFERS AND CHANGES IN FUND BALANCES

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
STATEMENT OF INCOME, EXPENDITURES, TRANSFERS AND CHANGES
IN FUND BALANCES
Year Ended December 31, 1981
(With Comparative Totals for 1980)

	Unrestricted	Restricted	
	Operating Fund	The Edna McConnell Clark Foundation Program	Legal Services Corporation Programs
Income			
Dues	$ 470,789	-	-
Contributions	122,710	-	-
American Bar Endowment Grant	150,000	-	-
Printed Materials - Publications	21,706	-	-
Interest	6,363	-	25,097
Annual Conference	138,161	-	7,075
LSC Conference	5,767	-	-
Technical Assistance	40,383	-	-
Other (NOTE 4)	49,022	-	-
Grants	-	64,000	492,238
Total Income	1,004,901	64,000	524,410
Expenditures			
Administration and Support	221,791	-	-
Civil Division	217,609	-	-
Defender Division	203,187	-	-
Accounting	78,413	-	-
Membership and Development	196,748	-	-
Communications	97,035	-	-
Governmental Relations	51,594	-	-
Conference	187,084	-	-
Grant	-	40,739	167,514
Total Direct Costs	1,253,461	40,739	167,514
Overhead Allocated to Grants	(85,808)	2,029	26,654
Total Expenditures	1,167,653	42,768	194,168
Excess (Deficiency) of Revenues over Expenditures	(162,752)	21,232	330,242
Transfer of Fund Deficits from Operating Fund	(13,838)	-	-
Excess (Deficiency) of Revenues and Transfers over Expenditures	(176,590)	21,232	330,242
Beginning Fund Balances (Deficit)	(37,744)	-	32,862
Ending Fund Balances (Deficit)	$(214,334)	21,232	363,104

The notes to the financial statements are an integral part of the statements.

EXHIBIT B

Restricted					1980 Totals	
Appellate Defender Development Project	Defender Management Information Systems III	Defender Management Information Systems IV	National College For Criminal Defense Program	Total	Unrestricted	Restricted
-	-	-	-	-	494,511	$ -
-	-	-	-	-	92,335	-
-	-	-	-	-	100,000	-
-	-	-	-	-	11,730	-
-	-	-	-	25,097	2,053	-
8,419	-	-	-	15,494	122,284	-
-	-	-	-	-	10,125	-
-	-	-	-	-	28,036	-
-	-	-	-	-	10,520	-
547,053	111,921	25,000	42,890	1,283,102	-	644,081
555,472	111,921	25,000	42,890	1,323,693	871,594	644,081
-	-	-	-	-	225,070	-
-	-	-	-	-	183,801	-
-	-	-	-	-	152,122	-
-	-	-	-	-	75,716	-
-	-	-	-	-	167,046	-
-	-	-	-	-	94,740	-
-	-	-	-	-	-	-
-	-	-	-	-	146,005	-
578,486	84,319	18,907	39,668	929,633	-	567,966
578,486	84,319	18,907	39,668	929,633	1,044,500	567,966
21,694	31,063	4,368	-	85,808	(57,898)	57,898
600,180	115,382	23,275	39,668	1,015,441	986,602	625,864
(44,708)	(3,461)	1,725	3,222	308,252	(115,008)	18,217
10,377	3,461	-	-	13,838	-	-
(34,331)	-	1,725	3,222	322,090	(115,008)	18,217
34,331	-	-	-	67,193	77,264	48,976
-	-	1,725	3,222	389,283	(37,744)	$ 67,193

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
NOTES TO THE FINANCIAL STATEMENTS
December 31, 1981

NOTE 1 - Summary of Significant Accounting Policies

A. The National Legal Aid and Defender Association was formed October 1911 for the purpose of engaging in such exclusively charitable, literary and educational activities that will encourage the formation of new legal aid and defender organizations, wherever they may be needed.

B. Restricted Fund - Grants and/or contracts that are for restricted activities have been accounted for separately. Unexpended grant and/or contract funds are reflected in applicable fund balances. Income from grants and/or contracts is recognized when received or to the extent of any excess expenditures over receipts, providing there are unused funds, with the exception of programs funded by the Legal Services Corporation. See NOTE 3 for details on the recognition of income on programs funded by Legal Services Corporation.

C. Unrestricted Funds - Income from all sources are recognized when received. Expenses are recognized when incurred.

D. Furniture and Equipment - Purchases of furniture and equipment are recorded at cost and depreciated over their estimated useful lives. The straight-line method of depreciation is used.

E. Overhead Allocation - Overhead costs are allocated to applicable grants and/or contracts in accordance with grant and/or contract agreements.

F. Federal Income Taxes - The Association is exempt from Federal income taxes under Section 501(c)(3) of the Internal Revenue Code.

G. Pension Plan - The Association has a defined contribution pension plan which is fully funded with the National Health and Welfare Retirement Association. The plan covers all employees twenty-five (25) years of age or older with at least three years of service. Pension expense for 1981 was approximately $20,930.

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
NOTES TO THE FINANCIAL STATEMENTS (CONT'D)
December 31, 1981

NOTE 2 - Investments - The Association has investments in both the Unrestricted Operating Fund and the Legal Services Corporation Restricted Fund. The investment in the Unrestricted Operating Fund consists of one hundred (100) shares of stock in the International Business Machines Corporation. The quoted market value at December 31, 1981 was approximately $57.00 per share. A summary of the investments recorded in the Legal Services Corporation Restricted Fund is presented below.

Holder	Type Of Investment	Amount	Maturity Date
Merrill Lynch	Ready Asset Trust	$ 811,843.92	On Demand
Merrill Lynch	Certificate of Deposit	400,000.00	June 7, 1982
American Indian Bank	Certificate of Deposit	300,000.00	January 5, 1982
American Indian Bank	Certificate of Deposit	400,000.00	February 3, 1982
	Total	$1,911,843.92	

NOTE 3 - In accordance with requirements established by the Legal Services Corporation, income received from the Corporation must be prorated over the term of the various awards. A summary of awards made by the Corporation to the Association is as follows:

Program	Amount of Award	Period
MAP/TAP	$650,000	09/28/81 thru 12/31/82
MAP/TAP	550,000	12/10/81 thru 12/31/82
Leadership Development	500,000	09/28/81 thru 12/31/82
Standards Development	65,000	09/28/81 thru 12/31/82
Standards Development	15,000	12/10/81 thru 12/31/82
Library Manual	20,000	09/28/81 thru 12/31/82
Private Bar Delivery	140,000	12/10/81 thru 12/31/82
Access to Justice	200,033	01/01/81 thru 12/31/82
Public Affairs Training	12,000	09/30/81 thru 09/30/82
Law Firm Resources	2,500	07/01/81 thru 06/30/82

Advanced funds ($13,276) received in 1980 for the Access to Justice Program was recognized when received. Consequently, the affect of the early recognition is factored in the 1981 income determination. In addition, the Association sponsored a Resources Development Conference. The excess cost was absorbed by the Legal Services Corporation.

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
NOTES TO THE FINANCIAL STATEMENTS (CONT'D)
December 31, 1981

NOTE 4 - Other Unrestricted Income - Included in this account is a $45,166 award received from the Legal Services Corporation. The purpose of the award was to refund the Association for prior overhead costs incurred by the Association but not previously paid by the Corporation.

NOTE 5 - Lease Agreement - The Association has a five (5) year noncancellable lease, effective January 1, 1980, for the rental of office space. Terms of the lease require annual payments of approximately $102,000 per year and provide for annual escalations based on increases in the Consumer Price Index.

SCHEDULE 1

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
SUMMARY OF UNRESTRICTED OPERATING FUND EXPENDITURES BY FUNCTIONAL CATEGORY
Year Ended December 31, 1981
(With Comparative Totals for 1980)

	Administration and Support	Civil Division	Defender Division	Accounting	Membership and Development	Communications	Governmental Relations	Conference	Total	1980 Total
Salaries and Wages	$ 75,880	111,023	92,711	38,631	103,602	37,611	35,256	56,886	551,600	$ 439,028
Fringe Benefits	11,798	13,708	12,873	5,729	16,444	5,375	3,725	8,517	78,169	65,473
Consultants	25,030	17,922	1,247	8,616	538	2,073	-	4,334	59,760	60,729
Travel	58,773	12,426	8,544	2,245	12,971	776	2,837	12,652	111,224	128,723
Space, Office and Storage	20,363	19,776	15,883	8,544	16,199	7,650	2,746	11,002	102,163	89,523
Moving	-	-	-	-	-	-	-	-	-	19,209
Equipment Leased and Maintenance	1,776	1,889	2,368	1,487	2,323	2,099	48	408	12,398	13,629
Telephone	4,369	8,549	5,891	1,953	6,790	3,041	3,133	2,773	36,499	23,553
Conference	195	10,286	7,511	11	17	-	-	60,430	78,450	45,378
Office Supplies	3,256	1,582	1,553	1,474	3,315	2,448	1,028	5,038	19,694	20,718
Mailing and Postage	2,473	7,189	3,731	407	8,395	8,447	7	10,465	41,114	37,409
Printing	2,274	4,978	2,961	331	7,319	24,456	1,128	12,133	55,580	60,565
Duplicating	3,126	3,907	6,431	990	2,021	855	154	1,193	18,677	11,996
Computer Services	170	466	136	6,732	10,944	528	-	119	19,095	10,456
Insurance	1,482	579	759	-	-	-	-	146	2,966	1,673
Publications and Subscriptions	645	1,093	1,373	285	2,356	618	554	123	7,047	4,943
Dues and Registrations	1,534	2,121	443	47	2,513	775	918	545	8,896	6,193
Depreciation	2,695	53	495	519	641	222	53	53	4,731	2,442
National Defender College Match	-	-	37,963	-	-	-	-	-	37,963	-
Miscellaneous	5,952	62	314	412	360	61	7	267	7,435	2,860
Total	$221,791	217,609	203,187	78,413	196,748	97,035	51,594	187,084	1,253,461	$1,044,500

SCHEDULE 2

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
SUMMARY OF GRANT EXPENDITURES
BY FUNCTIONAL CATEGORY
Year Ended December 31, 1981
(With Comparative Totals for 1980)

	The Edna McConnell Clark Foundation Program	Legal Services Corporation Programs	Appellate Defender Development Project	Defender Management Information Systems III	Defender Management Information Systems IV	National College For Criminal Defense Program	Total	1980 Total
Salaries and Wages	$12,837	63,682	50,738	46,397	11,761	-	185,415	$164,035
Fringe Benefits	1,818	10,206	7,260	6,259	2,017	-	27,560	23,375
Consultants	900	28,435	5,386	895	-	-	35,616	814
Travel	3,046	33,348	16,557	8,601	2,166	14,222	77,940	18,211
Subgrant Awards/Centers	19,460	-	485,967	-	-	-	505,427	329,193
Space, Office	480	2,206	2,250	3,534	686	-	9,156	7,748
Equipment Leased and Maintenance	444	854	1,253	153	-	-	2,704	1,007
Telephone	670	4,347	2,817	1,549	663	-	10,046	6,742
Office Supplies	239	1,007	758	339	503	-	2,846	1,854
Mailing and Postage	106	2,527	574	374	701	-	4,282	1,859
Printing	40	4,677	246	15,689	255	16,359	37,266	7,160
Duplicating	699	2,028	743	480	155	-	4,105	3,482
Dues and Registration	-	8,590	3,932	-	-	4,833	17,355	235
Insurance	-	370	-	-	-	-	370	560
Publications and Subscriptions	-	1,217	-	-	-	2,056	3,273	1,355
Miscellaneous	-	4,020	- 5	- 49	-	2,198	6,272	336
Total	$40,739	167,514	578,486	84,319	18,907	39,668	929,633	$567,966

Attachment # 14

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION

AUDIT REPORT

December 31, 1980

BANKS, FINLEY, WHITE & CO.
CERTIFIED PUBLIC ACCOUNTANTS

SCHEDULE 3

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
SUMMARY OF LEGAL SERVICES CORPORATION PROGRAMS
Year Ended December 31, 1981

	MAP/ TAP	Leadership Development	Standards Development	Library Manual	Private Bar Delivery	Access To Justice	Public Affairs Training	Law Firm Resources	Resources Development	Total
Grant Income										
Legal Services Corporation	$172,308	100,000	14,154	4,000	10,769	186,757	3,000	1,250	-	$492,238
Conference	-	-	-	-	-	-	-	-	7,075	7,075
Total Grant Income	172,308	100,000	14,154	4,000	10,769	186,757	3,000	1,250	7,075	499,313
Expenditures										
Salaries and Wages	11,750	-	1,441	-	-	50,491	-	-	-	63,682
Fringe Benefits	1,955	-	304	-	-	7,947	-	-	-	10,206
Consultants	14,957	8,783	1,686	-	-	1,909	-	-	1,100	28,435
Travel	19,624	4,041	3,012	-	-	4,427	541	-	1,703	33,348
Space, Office	1,961	-	245	-	-	-	-	-	-	2,206
Equipment Leased and Maintenance	691	-	18	-	-	145	-	-	-	354
Telephone	842	-	230	-	-	3,275	-	-	-	4,347
Office Supplies	776	-	36	-	-	-	-	-	195	1,007
Mailing and Postage	387	-	135	-	-	1,113	580	-	312	2,527
Printing	573	-	2,423	-	-	188	127	-	1,366	4,677
Duplicating	391	-	99	-	-	1,538	-	-	-	2,028
Dues and Registration	671	-	138	-	-	100	-	-	7,681	8,590
Insurance	370	-	-	-	-	-	-	-	-	370
Publications and Subscriptions	176	-	12	-	-	904	-	-	125	1,217
Miscellaneous	3,018	-	105	-	-	-	897	-	-	4,020
Total Direct Expenditures	$ 58,142	12,824	9,884	-	-	72,037	2,145	-	12,482	$167,514

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION

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BANKS, FINLEY, WHITE & CO.
CERTIFIED PUBLIC ACCOUNTANTS
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The Board of Directors
National Legal Aid and Defender
Association
Washington, D.C.

We have examined the balance sheet of the National Legal Aid and Defender Association as of December 31, 1980 and the related statement of income, expenditures, transfers and changes in fund balances for the year then ended. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

The financial statements of the National Legal Aid and Defender Association for the year ended December 31, 1979, which are presented for comparative purposes only, were previously examined by other auditors and their report dated February 15, 1980, expressed an unqualified opinion on those statements.

In our opinion, the financial statements referred to above present fairly the financial position of the National Legal Aid and Defender Association at December 31, 1980 and its income, expenditures, transfers and changes in fund balances for the year then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

Our examination was made primarily for the purpose of formulating the opinion stated in the preceding paragraph. The supplemental schedules included in this report, although not considered necessary for a fair presentation of financial position, results of operations, and changes in fund balances, have been subjected to the auditing procedures applied in the examination of the basic financial statements. In our opinion, the supplemental schedules are fairly stated when considered in conjunction with the basic financial statements.

February 6, 1981

Banks, Finley, White & Co.
BANKS, FINLEY, WHITE & CO.

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
BALANCE SHEET
December 31, 1980
(With Comparative Totals for 1979)

	1980	1979
ASSETS		
Unrestricted Operating Fund		
Cash	$ 16,459	62,732
Accounts Receivable	430	13,089
Interfund Receivable	-	449
Investment in Securities (NOTE 1)	6,700	16,700
Prepaid Expenses and Advances	13,198	10,648
Furniture and Equipment (net of $2,442 accumulated depreciation in 1980 on new items purchased. 1979 total was fully depreciated) (NOTE 2)	14,353	4,000
Total Unrestricted Operating Fund	51,140	107,618
Restricted Funds		
Access to Justice Project Grant		
Cash	17,995	34,044
Interfund Receivable	14,867	-
Total Access to Justice Project Grant	32,862	34,044
Defender Management Information Systems Grant II		
Cash	409	-
Grant Receivable	4,142	15,612
Total Defender Management Information Systems Grant II	4,551	15,612
Defender Management Information Systems Grant III		
Grant Receivable	13,077	-
Total Defender Management Information Systems Grant III	13,077	-
Appellate Defender Development Project Grant		
Interfund Receivable	34,331	18,001
Total Appellate Defender Development Project Grant	34,331	18,001
Center for Defense Management Grant		
Cash	-	244
Total Center for Defense Management Grant	-	244
Defender Management Information Systems Grant I		
Cash	-	279
Total Defender Management Information Systems Grant I	-	279
Total Restricted Funds	84,821	68,180
Total All Funds	$135,961	175,798

EXHIBIT A

	1980	1979
LIABILITIES AND FUND BALANCES		
Unrestricted Operating Fund		
Accounts Payable	24,710	$ 30,354
Payroll Withholdings and Accruals	32,604	-
Interfund Payable	31,570	-
Fund Balance (Deficit)	(37,744)	77,264
Total Unrestricted Operating Fund	51,140	107,618
Access to Justice Project Grant		
Interfund Payable	-	3,069
Fund Balance	32,862	30,975
Total Access to Justice Project Grant	32,862	34,044
Defender Management Information Systems Grant II		
Accounts Payable and Accrued Expenses	-	754
Interfund Payable	4,551	14,858
Total Defender Management Information Systems Grant II	4,551	15,612
Defender Management Information Systems Grant III		
Interfund Payable	13,077	-
Total Defender Management Information Systems Grant III	13,077	-
Appellate Defender Development Project Grant		
Fund Balance	34,331	18,001
Total Appellate Defender Development Project Grant	34,331	18,001
Center for Defense Management Grant		
Interfund Payable	-	244
Total Center for Defense Management Grant	-	244
Defender Management Information Systems Grant I		
Interfund Payable	-	279
Total Defender Management Information Systems Grant I	-	279
Total Restricted Funds	84,821	68,180
Total All Funds	135,961	$175,798

STATEMENT OF INCOME, EXPENDITURES, TRANSFERS AND CHANGES IN FUND BALANCES

EXHIBIT B

Restricted			1979 Totals	
Defender Management Information Systems III (Ending August 15, 1981)	Appellate Defender Development Project (Ending March 31, 1981)	Total	Unrestricted	Restricted
-	-	-	404,103	$ -
-	-	-	122,898	-
-	-	-	100,000	-
-	-	-	19,035	-
-	-	-	3,934	-
-	-	-	116,535	-
-	-	-	-	-
-	-	-	-	-
-	-	-	16,206	-
63,077	449,193	644,081	-	224,325
63,077	449,193	644,081	782,711	224,325
-	-	-	171,538	-
-	-	-	139,904	-
-	-	-	123,973	-
-	-	-	69,480	-
-	-	-	80,627	-
-	-	-	79,172	-
-	-	-	129,821	-
-	-	-	7,230	-
46,380	411,065	567,966	-	158,664
46,380	411,065	567,966	801,745	158,664
16,697	21,798	57,898	(42,326)	42,326
63,077	432,863	625,864	759,419	200,990
-	16,330	18,217	23,292	23,335
-	-	-	(3,732)	3,732
-	-	-	(14,147)	14,147
-	16,330	18,217	5,413	41,214
-	18,001	48,976	71,851	7,762
-	34,331	67,193	77,264	$ 48,976

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
NOTES TO THE FINANCIAL STATEMENTS
December 31, 1980

NOTE 1 - Summary of Significant Accounting Policies

A. The National Legal Aid and Defender Association was formed October 1911 for the purpose of engaging in such exclusively charitable, literary and educational activities that will encourage the formation of new legal aid and defender organizations, whereever they may be needed.

B. Restricted Fund - Grants and/or contracts that are for restricted activities have been accounted for seperately. Unexpended grant and/or contract funds are reflected in applicable fund balances. Income from grants and/or contracts is recognized when received or to the extent of any excess expenditures over receipts, providing there are unused funds.

C. Unrestricted Funds - Revenue from all sources are recognized when received. Expenses are recognized when incurred.

D. Investment in Securities - This account consists of one hundred (100) shares of stock in the International Business Machines Corporation. The quoted market value at December 31, 1980 was $67.88 per share.

E. Overhead Allocation - Overhead costs are allocated to applicable grants in accordance with grant agreements.

F. Federal Income Taxes - The Association is exempt from Federal income taxes under Section 501(c)(3) of the Internal Revenue Code.

G. Pension Plan - The Association has a defined contribution pension plan which is fully funded with the National Health and Welfare Retirement Association. The plan covers all employees twenty-five (25) years of age or older with at least three years of service. Pension expense for 1980 was approximately $7,253.

NOTE 2 - Furniture and Equipment - Furniture and Equipment are recorded at cost and depreciated over their estimated useful lives. The straight-line method of depreciation is used.

NOTE 3 - Lease Agreement - The Association has a five (5) year noncancellable lease, effective January 1, 1980, for the rental of office space. Terms of the lease require annual payments of approximately $102,000 per year and provide for annual escalations based on increases in the Consumer Price Index. Rent expense in 1980 was approximately $95,000.

SCHEDULE 1

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
SUMMARY OF UNRESTRICTED OPERATING FUND
EXPENDITURES BY FUNCTIONAL CATEGORY
Year Ended December 31, 1980
(With Comparative Totals for 1979)

	Administration and Support	Civil Division	Defender Division	Accounting	Membership and Development	Communications	Conference	Total	1979 Total
es and Wages	$ 68,570	94,453	79,516	38,465	79,821	32,700	45,503	439,028	$374,[illegible]
Benefits	11,594	10,887	12,260	5,456	14,108	5,619	5,549	65,473	51,[illegible]
tants	9,927	18,967	6,851	11,383	3,345	2,782	7,474	60,729	19,[illegible]
	68,897	14,282	17,413	3,074	5,216	2,363	17,478	128,723	80,[illegible]
Office and Storage	19,204	22,088	14,942	8,566	16,712	8,011	-	89,523	56,[illegible]
	17,709	-	1,500	-	-	-	-	19,209	-
ent Leased and enance	2,440	941	1,045	783	2,900	5,418	102	13,629	12,[illegible]
one	3,396	5,274	3,736	1,420	4,369	1,915	3,443	23,553	15,[illegible]
ence	938	-	-	-	-	-	44,440	45,378	38,[illegible]
Supplies	4,769	1,796	1,718	2,370	3,971	2,790	3,304	20,718	16,[illegible]
g and Postage	4,440	4,134	2,866	306	8,512	8,950	8,201	37,409	26,[illegible]
ng	4,952	2,130	4,823	331	17,443	22,347	8,539	60,565	65,[illegible]
ating	2,052	1,988	2,783	1,232	2,000	629	1,312	11,996	12,[illegible]
er Services	279	812	341	930	7,380	487	227	10,456	8,[illegible]
nce	829	280	345	-	-	-	219	1,673	1,[illegible]
ations and Subscriptions	428	1,862	1,287	41	728	559	38	4,943	-
nd Registrations	795	3,728	398	790	312	170	-	6,193	5,[illegible]
iation	1,599	-	298	352	193	-	-	2,442	-
al Defender College Match	-	-	-	-	-	-	-	-	12,[illegible]
laneous	2,252	179	-	217	36	-	176	2,860	5,[illegible]
otal	$225,070	183,801	152,122	75,716	167,046	94,740	146,005	1,044,500	$801,[illegible]

SCHEDULE 2

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION
SUMMARY OF GRANT EXPENDITURES
BY FUNCTIONAL CATEGORY
Year Ended December 31, 1980
(With Comparative Totals for 1979)

	Access To Justice Project	Defender Management Information Systems II	Defender Management Information Systems III	Appellate Defender Development Project	Total	1979 Total
Salaries and Wages	$42,287	34,219	32,165	55,364	164,035	$104,642
Fringe Benefits	5,589	4,985	5,222	7,579	23,375	10,848
Consultants	-	94	-	720	814	4,163
Travel	2,161	3,729	4,326	7,995	18,211	16,565
Subgrant Awards	-	-	-	329,193	329,193	-
Space, Office	-	1,625	2,373	3,750	7,748	7,577
Equipment Leased and Maintenance	-	-	28	979	1,007	250
Telephone	2,751	1,635	742	1,614	6,742	3,135
Office Supplies	-	324	316	1,214	1,854	357
Mailing and Postage	808	483	209	359	1,859	1,563
Printing	175	6,198	162	625	7,160	6,671
Duplicating	1,012	1,173	557	740	3,482	1,725
Dues and Registration	235	-	-	-	235	745
Insurance	140	-	280	140	560	392
Publications and Subscriptions	562	-	-	793	1,355	-
Miscellaneous	336	-	-	-	336	31
Total	$56,056	54,465	46,380	411,065	567,966	$158,664

The CHAIRMAN. With that, we're going to recess this committee until further notice. Thank you.

[Whereupon, at 3:38 p.m., the committee recessed, to reconvene at the call of the Chair.]

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